

April 2020

Sacrificial Lambs of Globalization: Child Labor in the Twenty-First Century

Ranee Khooshie Lal Panjabi

Follow this and additional works at: <https://digitalcommons.du.edu/djilp>



Part of the [International Law Commons](#)

Recommended Citation

Ranee Khooshie Lal Panjabi, *Sacrificial Lambs of Globalization: Child Labor in the Twenty-First Century*, 37 *Denv. J. Int'l L. & Pol'y* 421 (2009).

This Article is brought to you for free and open access by Digital Commons @ DU. It has been accepted for inclusion in *Denver Journal of International Law & Policy* by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

SACRIFICIAL LAMBS OF GLOBALIZATION: CHILD LABOR IN THE TWENTY-FIRST CENTURY

DR. RANEE KHOOSHIE LAL PANJABI*

I. INTRODUCTION

The idea of progress has dominated global thinking for the past few centuries. Politically, progress has enshrined concepts of human rights and brought freedom and democracy to many parts of the world that had previously only known absolutism and autocracy. Economically, the notion of progress has knit the world via the pathways of globalization into an inter-dependent unit where people engage in an international division of labor involving all levels of manufacturing and service provision. The resulting growth of human-developed technology has shrunk the world in terms of communications and dissemination of knowledge on a scale never conceived before.

With this development of a vast and powerful international market place there should have been a greater sharing of profits and the benefits. Unfortunately, this has not been the case. Socially, globalization has brought greater comprehension of diversity and the necessity for tolerance of the infinite variety of cultures that flourish on this amazing planet. However, economic “progress” has been largely at the expense of the most vulnerable elements of almost every society. Those elements, the poor, the illiterate, and particularly the children of the poor have paid a terrible price so that we in the richer countries might enjoy an orgy of consumerism at reasonable prices. Our need to buy and consume, but always at very low prices, has required that food and manufactured goods be produced to sell inexpensively but still provide sufficient profit. One methodology to achieve this aim is to utilize either very cheap labor – hence the export of manufacturing from the West to the developing world – or worse, much worse, to use slavery and child labor, and pay almost nothing to those who make our goods and harvest our food.

This research demonstrates that child labor prevails across the planet, in both rich and poor countries. Although it may be decreasing in some parts of the world, that is no comfort to those children caught in its brutal grip. This research has also verified the extent of international concern about this terrible practice, which robs the childhood of thousands.. *The Economist* stated that of “all the alleged sins of

* Dr. Ranee K.L. Panjabi is a Labor Relations Arbitrator and a Full Professor of History at Memorial University of Newfoundland, Canada. This article is dedicated to my mother, Lata K.L. Panjabi, author, poet, and my rock and inspiration. In writing this I memorialize my father, Khooshie Lal Panjabi, diplomat, author and journalist whose concern for human well-being affected all those he encountered.

globalization, child labour has been among the most scorned.”¹ Far from the promise of progress for those victims of globalization, this new internationalized marketplace has resuscitated the horrors of the past, such as slavery, human trafficking, and child labor—widely perceived as one of the most insidious of all crimes—against the most vulnerable and defenseless members of every society.

To be fair, we have progressed to the point of internationally outlawing child labor in a number of high-sounding and well-meaning legal instruments. Unfortunately, most countries only pay lip service to these instruments, while turning a blind eye to the prevalence of a practice that dooms thousands of children around the world to a life of back-breaking labor, brutal mutilation, physical and sexual torture, and emotional and psychological trauma. The International Labour Organization (ILO) has deemed the “economic exploitation of children . . . an insult to humanity.”² Any search for the reason why, in a world so dedicated to the concept of progress, such egregious human rights violations persist, only leads to the realization that children “are employed because they are easier to exploit and they can be paid less,” if they are paid at all.³

This article seeks to emphasize the nature of the problem, the immense scope of child labor internationally, and to remind us that we already have verbal commitments and laws. What we need is a greater will to promote their implementation, and rid our world of this terrible crime that brutalizes so many children. Space constraints restrict this article to dealing specifically with two manifestations of child labor: first, agriculture, which involves most of the children who are forced to work; and second, the labor roles of children in warfare as child soldiers and as sex slaves, porters and spies. Extensive research has clarified the idea that child labor cannot be eradicated in a vacuum which disregards societal breakdown caused by poverty, environmental degradation, civil strife, and economic turmoil. An analysis and assessment of the situation has yielded some ideas whereby the developed world can act multilaterally and meaningfully to make a difference in the developing world's poorest countries, many found in Africa. With a new American administration, and a president committed and dedicated to the politics of change, a new look at multilateral solutions might provide answers that can make a viable and long-term difference. With no oblique pun intended, it is obvious that internationally child labor is a ‘motherhood’ issue.

The child labor practices that prevail across the planet, even in the progressive democracies of the Western world, have few defenders, and a vast number of detractors. If the ultimate goal is still international progress, then child labor is a self-defeating practice in terms of the future of our planet. We cannot go on exploiting children and basing our economies, even partially, on the ill-gotten

1. *Sickness or Symptom?*, THE ECONOMIST, Feb. 5, 2004, at 73.

2. INTERNATIONAL LABOR ORGANIZATION [ILO], *Facts and Figures on Child Labour 2* (1999), <http://www.ilo.org/public/english/comp/child/download/pdf/statistics.pdf> [hereinafter *Facts and Figures on Child Labour 1999*].

3. Ximena de la Barra, *Defeating the Trends: In Search of a Better Future*, in 4 ADVANCES IN EDUCATION IN DIVERSE COMMUNITIES: RESEARCH, POLICY AND PRAXIS 477, 484 (Carol Camp Yeakey et al. eds., 2006).

fruits of child labor. If all of us can determine individually, nationally, and internationally not to allow this practice to prevail; we will secure a decent future for this entire planet. This is a major and significant issue of human rights. Any assumptions we have of being 'progressive' in this twenty-first century are eradicated by our acceptance of a form of ruthless exploitation that brutalizes the most helpless in our world to enhance our own creature comforts. The International Labour Organization has stated that the "effective abolition of child labour is one of the most urgent challenges of our time."⁴ If we fail in this endeavor to rid the world of this heinous crime, we doom the future of the entire planet. Rarely has true progress—idealistic progress, progress that is meaningful and valuable—been grounded in exploitation, acquiescence, and indifference to the fate of children.

II. DEFINITIONS

It has been correctly emphasized that "[t]here is no universally accepted definition of 'child labor.' Varying definitions of the term are used by international organizations, non-governmental organizations, trade unions and other interest groups. Writers and speakers don't always specify what definition they are using, and that often leads to confusion."⁵

National, cultural, and societal norms dictate the parameters that define "childhood" as a distinct time in the life of a human being. Childhood is thereby distinguished from adulthood, which can occur at different times, depending on gender, culture, social value systems, and laws of different societies. In a bid to provide a degree of uniformity, while still giving the nod to national divergence on this grounding issue, the United Nations has set the parameter for childhood at age eighteen, "unless under the law applicable to the child, majority is attained earlier."⁶ States ratifying the ILO's Minimum Age Convention are required to specify a minimum working age.⁷ The results have determined that countries in the developing world set the parameter at fourteen years, while developed countries tend toward age fifteen.⁸

Definitional discussions about child labor point to the necessity to distinguish between labor that provides a child with a useful set of skills for earning a living in adulthood, a type of education, and labor that includes assisting the family in household chores or farm work, geared to familial survival and economic progress. According to author and Director for the Elimination of Child Labour at the International Labour Organization, Guy Thijs:

4. ILO, *Facts on Child Labour* (June 2005), <http://www.ilo.org/public/english/bureau/inf/download/child/childday05.pdf> [hereinafter *Facts on Child Labour* 2005].

5. Images of Child Labor: Photography for Social Change, Child Labor: Frequently Asked Questions, <http://www.childlaborphotoproject.org/childlabor.html>.

6. Convention on the Rights of the Child, G.A. Res. 44/25, art. 1, U.N. Doc. A/44/49 (Nov. 20, 1989).

7. *Id.* at art. 32.

8. *Global Child Labour Figures Fall*, B.B.C. NEWS, May 4, 2006, http://news.bbc.co.uk/2/low/in_depth/4973088.stm.

participation in certain types of light work, such as helping parents care for the home and family for short periods in the day, or teenagers working for a few hours before or after school or during holidays to earn pocket money, is considered to be part of growing up for boys and girls and a means of acquiring basic survival and practical skills.⁹

Although a very broad definition would encompass any work performed by children, it is universally recognized that some forms of work involving family chores have a positive role to play in child development.¹⁰ As John J. Tierney Jr. has explained, "the type of child labor that has become the focus of international concern is the abusive, unhealthy, commercial exploitation of children that interferes with their education."¹¹ The problems of child labor relate to exploitative labor, which is usually unpaid and unrecompensed and deprives children of any meaningful future and degrades them in every way imaginable.¹² The International Labour Organization has estimated that mentally, emotionally, and physically degrading child labor affects one in six children in the world today.¹³ The complexity of defining such work has been admitted by the United Nations International Children's Emergency Fund (UNICEF); which explained in its 1997 Report on the State of the World's Children that such work has to be gauged along a linear continuum, comprising destructive work at one extreme and beneficial work at the opposite side.¹⁴ Between these polar opposites exists a range of work typologies that "need not negatively affect a child's development."¹⁵

Unfortunately, whether the particular child labor is a constructive preparation for adulthood or the worst form of exploitation is usually a subjective assessment, often based on cultural and societal norms, which can defeat the best intentions of international laws and covenants. The framers of the United Nations Convention on the Rights of the Child were quite aware of this dilemma, and of the fact that severe exploitation could be passed off as an apprenticeship for adulthood.¹⁶ Similarly, a child's contribution to working off a family's debt of indentured labor could, depending on one's social values, be perceived as a useful and helpful form of assistance to the family unit, rather than a cruel and heinous extension by generation of bonded enslavement. Perceptions colored by national and cultural norms cloud the definitions in this debate. The ultimate eradication of exploitative child labor will depend largely on a realization that, although national standards differ, there has to be international acknowledgment and effective implementation

9. Guy Thijs, *National Policies and Programmes*, in ACTION AGAINST CHILD LABOUR 3, 4 (Nelien Haspels & Michele Jankanish eds., 2000); *Global Child Labour Figures Fall*, *supra* note 8.

10. John J. Tierney Jr., *Regulated Child Labor is Necessary in Developing Countries*, in CHILD LABOUR AND SWEATSHOPS 24, 27 (Ann Manheimer ed., 2006).

11. *Id.*

12. *Id.*

13. *Facts on Child Labour 2005*, *supra* note 4.

14. UNITED NATIONS CHILDREN FUND [UNICEF], THE STATE OF THE WORLD'S CHILDREN: WHAT IS CHILD LABOR 24 (1997), available at <http://www.unicef.org/sowc97/report/> [hereinafter STATE OF THE WORLD'S CHILDREN 1997].

15. *Id.*

16. G.A. Res. 44/25, *supra* note 6, at art. 32.

of the principle that child labor, that is exploitative in a universally-recognized manner, is unacceptable in this twenty-first century. We cannot allow definitional disputation to dominate the debate over the eradication of this practice. One way to cut the Gordian Knot of such bickering is perhaps to work globally toward the implementation of compulsory education for all boys and girls through high school. Should this goal ever be achieved, children would automatically be removed from sweatshops, brothels, mines, and quarries, where they labor and despite employer and parental objections, be placed in school for most of the day. The World Development Report concluded in 2007 that there are approximately 130 million children, between the ages of fifteen and twenty-four years old, who are unable to read and write.¹⁷ A consistent universal effort to deal with this problem of mass illiteracy and child labor would simultaneously address two major problems that afflict the world's children and the future development of the planet.

One of the most comprehensive definitions of child labor that the vast literature provides is that selected by Guy Thijs, who has explained that child labor comprises work that is "mentally, physically, socially or morally dangerous and harmful to children," and is "work carried out to the detriment and endangerment of the child, in violation of international law and national legislation."¹⁸ It is important to emphasize that definitional disputes ought not to detract us from the main task at hand, namely the urgent alleviation of the the lot of the most vulnerable and helpless members of our society.

III. SCOPE OF CHILD LABOR

According to Cathryne L. Schmitz, the "work of children is a global issue."¹⁹ Whether perceived through the lens of geography, economic activity, international division of labor, or through any investigative prism, the results are staggering in terms of the numbers of children who are exploited and the range of work they perform. Arguably, children constitute a very significant component of the global economy, and comprise its most exploited element. It has been estimated that, as this new century began, approximately two billion persons—one-third of the people—on this planet were under the age of eighteen, with one-tenth being under the age of five.²⁰ Approximately 90 percent of these youngsters live in the developing world.²¹ In its 2005 *Facts on Child Labour*, the International Labour Organization estimated that about 73 million of working children were younger than ten years of age.²²

Statistics vary depending on the researcher's established parameters in individual inquiries. Kebebew Ashagrie attributed this to an absence of

17. WORLD BANK, WORLD DEVELOPMENT REPORT: DEVELOPMENT AND THE NEXT GENERATION, REP. 35999, 37 (2006), available at http://www-wds.worldbank.org/external/default/WDSPContentServlet/WDSP/IB/2006/09/13/000112742_20060913111024/Rendered/PDF/359990WDR0complete.pdf.

18. Thijs, *supra* note 9, at 4.

19. CATHRYNE L. SCHMITZ ET AL., CHILD LABOR: A GLOBAL VIEW 1 (Cathryne L. Schmitz et al. eds., 2004).

20. de la Barra, *supra* note 3, at 478-79.

21. *Id.* (citation omitted).

22. *Facts on Child Labour 2005*, *supra* note 4.

appropriate survey methodology concerning child labor, which is “a hidden or invisible phenomenon,” and concluded that there is “a wide variety of guesstimates as to the number of working children under fifteen years of age, ranging from 200 to 400 million worldwide.”²³ Clearly, while determining the existence of exploitative child labor in particular situations can be a challenge, enumerating the practice statistically is even more difficult, given that the work frequently occurs under the radar and is hidden from law enforcement and non-governmental agencies. It is not easy for enumerators to persuade perpetrating employers to cooperate when the latter are aware that their use of children is against national and international laws. The plethora of international instruments has at least disseminated the realization that the practice is frowned upon, and that there are elements around the world that seek its eradication. However, this awareness, in those who perpetrate the exploitation of children, has led to a more clandestine and more invidious methodology for utilizing child labor. As with slavery and trafficking, child labor forms part of the illegal, underground economy in many countries, and is therefore much more difficult to deal with and to eradicate.²⁴ The inconsistent statistics are indicative of the unfortunate success of perpetrators of this practice at camouflaging their activities. The varying enumerations notwithstanding, the conclusions are similar and frightening. Too many children are trapped in this terrible form of exploitation. No world that strives for progressive improvement can countenance such egregious violations of the rights of children.

Complicating any attempt at statistical clarity is also the fact that some children work full time, others for a few hours, and others only seasonally. Moreover, the designation of exploitative child labor can vary depending on the economic sector, the familial financial circumstances, individual employers, and a host of other variables that can bedevil any cohesive attempt to establish firm statistical data. Additionally, the age groups of children being considered statistically can vary depending on individual enumeration systems, from very wide inclusive boundaries to very restricted criteria. For instance, Zoe Chafe, writing for the World Watch Institute, has commented that “[a]ll children who report having worked at least one hour on any day during a seven-day period are considered economically active.”²⁵

In a valiant effort to cope with this very challenging and complex situation of enumeration the International Programme on the Elimination of Child Labour and the Statistical Information and Monitoring Programme on Child Labour (IPEC/SIMPOC) coordinated “an internationally accepted definition of employment,” which focuses on paid and unpaid work performed by children in

23. Kebebew Ashagrie, *Improving the Knowledge Base on Child Labour*, in ACTION AGAINST CHILD LABOUR 117, 117 (Nelien Haspels & Michele Jankanish eds., 2000).

24. See generally Ramee K.L. Panjabi, *Born Free Yet Everywhere in Chains: Global Slavery in the Twenty-First Century*, 37 DENV. J. INT'L L. & POL'Y 1 (2008).

25. Zoe Chafe, *Child Labor Harms Many Young Lives*, WORLD WATCH INSTITUTE, Nov. 8, 2007, <http://www.worldwatch.org/node/5479>.

the formal and nonformal economies in rural and urban areas.²⁶ The definition excludes work that children perform in their own homes.²⁷ Although the IPEC/SIMPOC contribution has been very significant, the challenges of quantifying and analyzing the fundamental problems remain, particularly with respect to those economic activities that are illegal.

There are numerous attempts at shedding light on both the scale and the proliferation of this type of abuse of children. The Christian Children's Fund has estimated that about 218 million children, aged five through seventeen, are engaged in child labor—excluding child domestic labor.²⁸ More tragic is the organization's estimate that about 126 million of these children are engaged in hazardous labor including working in mines or in situations involving pesticides, chemicals, and dangerous machinery.²⁹

These statistics can be compared with the data of the International Programme on the Elimination of Child Labour working in tandem with the Statistical Information and Monitoring Programme on Child Labour.³⁰ Excluding children who work in their own homes, this group estimated paid and unpaid economic activity by children in rural and urban areas.³¹ Their very important 2002 report concluded that 352 million children, between the ages of five and seventeen years, were working as of the year 2000.³² It was found that as many as 73 million of these children were under ten years old.³³ A few years later, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) estimated that, as of November 2007, over eight million children were trapped in the most insidious manifestations of child labor, specifically "slavery, trafficking, debt bondage, forced military service, prostitution and pornography."³⁴ With an obvious view to highlighting one of the most heinous precursors that leads to a childhood of forced labor, the International Labour Organization, in its June 2005 *Facts on Child Labour*, estimated that over a million children were victims of trafficking.³⁵

Although "the developed countries of the world are far from innocent of the plagues of exploitative child labor and human trafficking,"³⁶ the problem is far

26. SCHMITZ, *supra* note 19, at 5.

27. *Id.*

28. CHRISTIAN CHILDREN'S FUND, CHILD LABOR 4 (June 2008), [http://www.christianchildrensfund.org/uploadedFiles/Public_Site/news/Newsroom/Current/DevEd%20Education_Child%20Labor_Youth%20Version_Final\(1\).pdf](http://www.christianchildrensfund.org/uploadedFiles/Public_Site/news/Newsroom/Current/DevEd%20Education_Child%20Labor_Youth%20Version_Final(1).pdf).

29. *Id.*

30. ILO, *Every Child Counts: New Global Estimates on Child Labour* (2002), <http://www.ilo.org/ipecinfor/product/download.do?type=document&id=742> [hereinafter *Every Child Counts*].

31. *Id.* at 29.

32. *Id.* at 5.

33. SCHMITZ, *supra* note 19, at 5.

34. Posting of James Parks to AFL-CIO Now Blog, *Time to End Child Labor Now* (Nov. 13, 2007), <http://blog.aflcio.org/2007/11/13/time-to-end-child-labor-now>.

35. *Facts on Child Labour 2005*, *supra* note 4.

36. 4 ADVANCES IN EDUCATION IN DIVERSE COMMUNITIES: RESEARCH, POLICY AND PRAXIS xv (Carol Camp Yeakey et al. eds., 2006).

more extensive in the developing world, where—by one estimate—there are approximately 1.3 billion young people, the “most ever in history.”³⁷ It is fairly obvious to any researcher in this field that statistical enumeration of the problem is far from precise. However, there can be no doubt that the evil of child labor prevails on a gigantic scale, and that the world needs to act decisively, not simply to frame and formulate pronouncements and conventions, but to act to end this brutal practice.

It is clear that the practice prevails globally, with no country exempt from this violation of the human rights of children. UNICEF, in its 2007 Progress for Children report, emphasized the economic activities of children between the ages of five and fourteen.³⁸ Based on regional data relating to 2006, the Report found that the worst exploitation of children occurred in Sub-Saharan Africa with 35 percent of children engaged in labor.³⁹ Such economic exploitation of children affected 13 percent of children in Asia, 11 percent in Latin America and the Caribbean, 7 percent in East Asia and the Pacific Region, 9 percent in the Middle East and North Africa.⁴⁰ UNICEF concluded that approximately 158 million children work globally, an overwhelming majority of them in the developing world.⁴¹ The high estimated percentage for Africa notwithstanding, the largest number of working children are located in Asia, where in 2005 an astounding 127 million children fourteen and younger were at work.⁴² As of June 2005, the International Labour Organization estimated that 2.5 million children worked in developed economies and another 2.5 million worked in the transition economies that appeared after the fall of the Soviet Union.⁴³ The practice is so globally prevalent that it will require a multilateral approach and international will to eradicate and eliminate this human rights violation.

On a more positive note, several enumerators have found some signs of decline in child labor. Globally, the estimated 246 million laborers between the ages of five and seventeen in 2000 had dropped to an estimated 218 million by 2004.⁴⁴ This drop is significantly lower than the 246 million reported by the ILO in its 2002 Report.⁴⁵ The ILO concluded in 2006 that there was a noticeable drop in Latin America and the Caribbean over the previous four years.⁴⁶ In that region it was estimated that the number of working children had dropped by two-thirds between the ILO's Reports of 2002 and 2006, with Brazil showing a remarkable 60

37. WORLD BANK, *supra* note 17 at 4.

38. UNICEF, 6 PROGRESS FOR CHILDREN: A WORLD FIT FOR CHILDREN STATISTICAL REVIEW 43 (2007), http://www.unicef.org/progressforchildren/2007n6/files/Progress_for_Children__No._6.pdf [hereinafter PROGRESS FOR CHILDREN].

39. *Id.*

40. *Id.*

41. *Id.*

42. *Facts on Child Labour 2005*, *supra* note 4.

43. *Id.*

44. ILO, *Facts on Child Labour 1* (2006), http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_067558.pdf [hereinafter *Facts on Child Labour 2006*].

45. *Global Child Labour Figures Fall*, *supra* note 8.

46. *Facts on Child Labour 2006*, *supra* note 44.

percent drop in the number of working children aged five to nine years old.⁴⁷ Most recent estimates by the ILO suggest that about 5 percent of Latin American children aged five to fourteen are working.⁴⁸

While numbers fell in Latin America, there was little change in Africa.⁴⁹ In its 2005 *Facts on Child Labour*, the ILO recorded that sub-Saharan Africa had the largest proportion of working children; numbering 48 million and comprising about one-third of children fourteen and younger.⁵⁰ In Asia there were still 122 million children working, a decline of only five million⁵¹ over a four year period with specific reference to children aged five to fourteen years.⁵² Asia is the most densely populated part of the world, and it has the highest number of child laborers.⁵³

Much more research and attention has to be directed toward the prevalence of child labor in populations at risk, such as indigenous peoples of various societies, both in the developing and developed world. These marginalized groups⁵⁴ have standards of living so low and their grip on survival is so fragile that parents are often persuaded and coerced into selling their children, so that the remainder of the family may eat for a few weeks. Additionally, the prevalence of a massive refugee crisis, affecting virtually every country in the world, has further endangered children. Families disrupted and uprooted from their homes and lifestyles are more likely to be compelled to send children to labor as a means of survival.⁵⁵ Sometimes, children are separated from parents as families flee from armed conflict. In such situations children can easily be kidnapped and enslaved.⁵⁶ Countries torn asunder by war, terrorism, and civil conflict are particularly prey to internal and external refugee crises.⁵⁷ In these situations the plight of children becomes really dire. Child labor cannot really be eradicated permanently until the conditions that render children so vulnerable are also addressed multilaterally. Unfortunately all the high-sounding phrases of international covenants become meaningless and almost farcical in the context of armed conflict, rebellions, and wars which destroy the fabric of societies, the unity of families, and provide more child laborers for exploitation in the economic markets of this globalized world.

The range of economic activity undertaken by children is indicative of the extent to which the global marketplace has come to rely on this egregious form of human exploitation. In some countries there is scarcely an economic enterprise that does not participate in some form of child labor. The ILO estimated that, as of June 2005, 70 percent of working children were involved in agriculture,

47. *Global Child Labour Figures Fall*, *supra* note 8.

48. *Facts on Child Labour 2006*, *supra* note 44.

49. *Global Child Labour Figures Fall*, *supra* note 8.

50. *Facts on Child Labour 2005*, *supra* note 4.

51. *Global Child Labour Figures Fall*, *supra* note 8.

52. *Facts on Child Labour 2006*, *supra* note 44.

53. *Facts and Figures on Child Labour 1999*, *supra* note 2, at 2.

54. See SCHMITZ, *supra* note 19, at 3-4.

55. *Id.*

56. *Id.*

57. *Id.*

commercial hunting, fishing and forestry; 8 percent in manufacturing; and 7 percent in personal service, which includes domestic work.⁵⁸ In 2006 the same organization estimated that 70 percent were still involved in agriculture, 22 percent in the service sector, and 9 percent in industry, which includes mining, construction, and manufacturing work.⁵⁹ Quantifying and evaluating the economic involvement of children on a global basis is rendered complex by the variety of occupations in which there is apparently scope for the beneficial or exploitative use of young people. Alessandro Cigno and Furio C. Rosati point out that “[c]hildren throughout the world are engaged in a great number of activities classifiable as work. These range from fairly harmless, even laudable, activities like helping out in the home, to physically dangerous and morally objectionable ones like soldiering and prostitution.”⁶⁰

Hence, children can work without pay by helping out at home or by working on family farms. Additionally, they can supplement family income by engaging in handicraft making, and participating in village cottage industries.⁶¹ Children in the developing world are frequently apprenticed to artisans crafting hand made goods like brass ware, jewelry, carpets, embroidery, and leather goods, made largely for the consumption of tourists.⁶² The economic conditions of such children can range from very benign to very dangerous, depending on the type of work, the employer, and a number of other variables. At its best, such work can provide children with useful skills and the ability to earn a living as adults. At its worst, this type of situation can deteriorate into a form of slavery with little or no pay, barely enough food, and brutal living conditions. Moreover, children in these situations can develop permanent economic and even psychological dependence upon the master craftsman.

The developed world also participates in the exploitation of children. Where, as in the United States of America, there are large farms that require seasonal labor, children form part of migrant families that harvest crops and perform agricultural chores. Agricultural pursuits constitute a major part of child labor, and many of the serious violations of children's rights occur in rural economies.⁶³

This utilization of child labor in agriculture is prevalent in many developing nations like India and China, as well as regionally in South-East Asia, Africa, and parts of Latin America.⁶⁴ The situation is particularly serious when children form part of families that are bonded to a moneylender for debts, sometimes of less than one dollar. Generations of peasants have, in the developing world, been swindled

58. *Facts on Child Labour 2005*, *supra* note 4.

59. *Facts on Child Labour 2006*, *supra* note 44.

60. ALESSANDRO CIGNO & FURIO C. ROSATI, *THE ECONOMICS OF CHILD LABOUR 1* (2005).

61. State Child Labour Rehabilitation Welfare Society, *Forms of Child Labour*, www.tnchildlabour.tn.gov.in/forms.htm (last visited Jan. 31, 2009) [hereinafter *Forms of Child Labour*].

62. *Id.*

63. Press Release, ILO, *Child Labour Persists Around the World: More Than 13 Percent of Children 10-14 are Employed*, ILO/96/18 (Jun. 10, 1996), available at http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Press_releases/lang--en/WCMS_008058/index.htm.

64. *Id.*

out of any meaningful life and financial independence, working for years, eking out a bleak life on bare subsistence, unable to break the liability of indenture because they lack the literacy and the legal skills to demand their rights. On occasion, children and their labor form part of the payment for the debt that is owed, a situation that leads to the worst excesses of slavery and brutalization.⁶⁵

Research from many countries demonstrates how widespread is the use of child labor. Children are put to work in a variety of enterprises, from the notorious making of footballs in Pakistan,⁶⁶ to stone-breaking, and rag-picking. According to one study, there are over three hundred such occupations in just one country, Bangladesh.⁶⁷

It has appropriately been stated that "child labor is not confined to any particular economic sector."⁶⁸ Children can be found in every type of economic enterprise, whether working as servants, field hands, miners (where they are exposed to lead, mercury and other dangerous metals),⁶⁹ or as divers for pearls or in deep sea fishing. Children are also often found making toys, garments, and a multitude of other consumer goods that the wealthy world enjoys.⁷⁰ Children who work at making shoes are consistently "exposed to solvents, glues, and curing and cleaning agents."⁷¹ Additionally, children can be found in service industries such as tourism, cleaning and cooking at restaurants, and even professionally begging on the streets for the benefit of a gang leader.⁷² "They carry out a multitude of activities such as hauling wood and water, brick making, wrapping cigarettes, domestic chores, and child care . . . They are exploited in the commercial sex industry and engaged in the drug trade."⁷³ Author Alan D. Woolf has discovered child labor in "wholesale and retail stores, personal services, transportation, storage, communications industries, construction, and mining and quarrying activities."⁷⁴ According to Woolf, in "some countries, scavenging and recycling from community waste dumps is an economic necessity for poverty-ridden families,"⁷⁵ and children troll the garbage, hunting for materials that can be sold.

Most tragic of all is the plight of homeless children, many of them orphans who live on the streets and work in terrible environments, doing just about

65. *Forms of Child Labour*, *supra* note 61.

66. Sherin Khan, *Awareness-Raising*, in ACTION AGAINST CHILD LABOUR 273, 277 (Nelien Haspels & Michele Jankanish eds., 2000).

67. *Id.*

68. Carol Camp Yeakey & Judith Brooks Buck, *Small Hands: Global Dimensions of Child Labor and Exploitation*, in 4 ADVANCES IN EDUCATION IN DIVERSE COMMUNITIES: RESEARCH, POLICY AND PRAXIS 295, 296 (Carol Camp Yeakey et. al eds., 2006).

69. Alan D. Woolf, *Child Labor Hurts Children's Health and the Economy*, in CHILD LABOR AND SWEATSHOPS 32, 33-34 (Ann Manheimer ed., 2006).

70. See Camp Yeakey & Brooks Buck, *supra* note 68.

71. Woolf, *supra* note 69, at 33.

72. *Id.*

73. SCHMITZ, *supra* note 19, at 4.

74. Woolf, *supra* note 69, at 33.

75. *Id.*

anything in order to survive,⁷⁶ sometimes caring for and protecting younger siblings. These children are prey to all kinds of criminals, and even to police brutality in many developing world countries.⁷⁷ Their plight is the most tragic and studying and assessing their conditions a real challenge because they have no fixed homes.

The international scope of the problem has to be emphasized, along with its tragic particular economic manifestations. No country is immune from the taint of child labor. The agrarian economy utilizes children extensively in all parts of the world. Small enterprises found all over the world depend on children to maximize their profits. Child soldiers are mainly found in areas of turmoil such as Sudan, Uganda, and Afghanistan. Countries such as Thailand and the Philippines, which are both popular tourist destinations, tend to lure child predators from around the world. Wherever there are economies in peril, street children appear—working as hawkers, beggars, and child prostitutes. Where globalization has knit the world together into an inter-connected unit, the evils of globalization have proliferated across the world. Eradicating some of these problems will require international effort and universal commitment to action.

If we do not act expeditiously and with determination, there will be many million more children who will lose not just their childhood, but possibly their health and their lives. As Camp Yeakey and Brooks Buck explain: “[w]ith economic globalization tying national economies more closely together, awareness of the incidence of child labor in Third World nations is growing rapidly in industrialized countries.”⁷⁸ However, awareness is not sufficient. There has to be action as well. If the new American administration can provide the initiative to generate a multilateral dedication to eradicating child labor, and dedicate some part of its abundant expertise to promoting universal compulsory education through high school; it will demonstrate that the United States of America is not just a military superpower, but also a superpower in terms of human rights and human benefit.

A. Poverty and Child Labor

It is a truism that child labor prevails because poverty prevails. As Jeremy Seabrook has commented: “the great majority of children work because their families are poor.”⁷⁹ It is evident that “[p]overty is undoubtedly a dominant factor in the use of child labour.”⁸⁰ Like poverty, from which it is born, child labor has always been with us. The concept of making children work is as old as human history. Indeed, the notion of setting aside childhood for education and play is the newer concept, constructed as part and parcel of our commitment to progress.

76. SCHMITZ, *supra* note 19, at 4-5.

77. See generally *id.* (discussing 15 countries and the criminals to which children are prey in each).

78. Camp Yeakey & Brooks Buck, *supra* note 68, at 295.

79. JEREMY SEABROOK, CHILDREN OF OTHER WORLDS: EXPLOITATION IN THE GLOBAL MARKET 51 (2001).

80. ECLT Foundation, Causes of Child Labour, <http://www.eclt.org/about/overview.html> (last visited Feb. 10, 2009).

Educated children, it is widely felt, advance not just themselves, but the world. It is also a truism that society advances as its population acquires more knowledge, skills, and understanding of the world. In that context, child labor is regressive and antithetical to the notion of progress.

The prevalence of child labor tragically highlights the continuing existence of grinding poverty in our world. It is both a symptom of that poverty, and a consequence of the failure of many governments to act to alleviate this problem. As Ximena de la Barra has pointed out, “[p]overty begets child labor, begets lack of education, begets poverty and lack of fulfillment of personal aspirations as well as aspirations of a significant contribution to society.”⁸¹ UNICEF has explained that “[c]hildren living in the poorest households and in rural areas are most likely to be involved in child labour.”⁸²

Although there are significant pockets of abject poverty in every country in the world, the extreme forms of this affliction of intense poverty dominate parts of Latin America, Africa, and Asia, where, correspondingly, child labor also prevails.⁸³ To provide only one example of the dimensions of this problem, it has been estimated that over 40 percent of the population of the Philippines lives below the poverty line. Consequently, the prevalence of child labor in that country should not cause any surprise.⁸⁴

At the beginning of this new millennium, approximately 2.8 billion people, one-half the population of the planet, live on less than two dollars per day.⁸⁵ Of this vast number, 1.2 billion can be classified as being in a state of “extreme poverty,” subsisting on less than one dollar per day.⁸⁶ The enormity of the task ahead in eradicating child labor becomes obvious with the realization that more than half of the poor people in the world are children,⁸⁷ a grim statistic that should inspire the leaders of the world to act decisively and urgently to remedy this terrible situation. Although UNICEF has argued that it is a myth that “child labour will never be eliminated until poverty disappears,”⁸⁸ the nexus between the two has to be considered vital to any progressive multilateral plan for the future betterment of our planet. Although poverty is by no means the only cause of child labor, it is certainly an important factor, and one that has to be weighed in any serious analysis of the subject. As Cathryne L. Schmitz has commented, “[p]overty is the major precipitating factor, but education, rigid social and cultural roles, economic greed, family size, geography, and global economics all contribute.”⁸⁹ The contrast between have and have-not can be gauged by the statistics prepared by the

81. de la Barra, *supra* note 3, at 484.

82. PROGRESS FOR CHILDREN, *supra* note 38, at 43.

83. Child Labor Public Education Project, Causes of Child Labor, http://www.continuetolearn.uiowa.edu/laborctr/child_labor/about/causes.html (last visited Feb. 10, 2009).

84. See Teresita Silva, *Preventing Child Exploitation on the Streets in the Philippines*, 360 LANCET 1507, 1507 (2002), available at <http://www.crin.org/docs/ChildHope.pdf>.

85. de la Barra, *supra* note 3, at 482.

86. *Id.*

87. *Id.*

88. STATE OF THE WORLD'S CHILDREN 1997, *supra* note 14, at 20.

89. SCHMITZ, *supra* note 19, at 1.

United Nations Development Programme in 2003, and cited by Ximena de la Barra who explained that “the richest 5% of the world’s people receive 114 times the income of the poorest 5%. The richest 1% receives as much as the poorest 57% and the 25 million richest Americans have as much income as almost 2 billion of the world’s poorest people.”⁹⁰

The recent economic crisis that has beset the entire world has further endangered the children of the very poorest of families. With rising food prices, those who have subsisted on one or two dollars per day can no longer eke out enough food for the entire family. In such conditions of economic meltdown, the poorest are the most fragile and their children become the most vulnerable. World Vision has pointed out that in Mongolia the price of staple foods has doubled since 2007, with potatoes costing five times more.⁹¹ It is hardly surprising that nearly eight thousand children in Mongolia work in mines.⁹²

In such circumstances, where finding enough food to eat is the ultimate daily challenge, it is not unduly surprising that parents become dependent on the money their children can earn. Jeremy Seabrook explained this dilemma, stating that “[parents] are not transfixed by materialism, they are not greedy or selfish – they simply see no other pathway to survival; and the children absorb this lesson in the daily experience of empty bellies and frequent sickness.”⁹³

The nexus between child labor and poverty was aptly expressed by American social worker and activist Grace Abbott who explained, “[c]hild labor and poverty are inevitably bound together and if you continue to use the labor of children as the treatment for the social disease of poverty, you will have both poverty and child labor to the end of time.”⁹⁴

Although poverty and child labor are linked in a very clear and defined relationship, it is also important to emphasize that other factors have been articulated for the prevalence of this terrible violation of children’s rights. One of the best definitions of the varied causation involved can be found in the Declaration and Agenda for Action of the First World Congress Against Commercial Sexual Exploitation of Children held in Sweden in August 1996.⁹⁵ Although the causes mentioned are specific to sexual exploitation, the reasoning can very aptly be extrapolated to cover the entire subject of child labor. The Congress determined that a “range of other complex contributing factors include economic disparities, inequitable socio-economic structures, disfunctioning families, lack of education, growing consumerism, urban-rural migration, gender

90. de la Barra, *supra* note 3, at 482.

91. Justin Douglas et al., *Child Labor Increases as a Result of the Global Food Crisis*, WORLD VISION, Aug. 2008, http://www.worldvision.org/news.nsf/news/child-labor-200808?Open&wvsrc=ews&lpos=fea_txt_publicationindex_CHILD-LABOR.

92. *Id.*

93. SEABROOK, *supra* note 79, at 51.

94. CHRISTIAN CHILDREN’S FUND, *supra* note 28, at 4.

95. First World Congress Against Commercial Sexual Exploitation of Children, Aug. 27-31, 1996, *Declaration and Agenda for Action*, ¶ 6, U.N. Doc. A/51/385 (Sep. 20, 1996).

discrimination, irresponsible male sexual behavior, harmful traditional practices, armed conflicts and trafficking of children.”⁹⁶

The eradication of child labor is linked to an improvement in the lot of the poor. Even if the latter task seems beyond the grasp of any governments or international organizations, that should still not affect their will to alleviate the lives of the millions of children trapped in this terrible plight of working from a very young age. It is easy to suggest that all world leaders and bureaucrats have to do is implement their own commitments and words with respect to the rights of children. The global dependence on child labor must also be seen as ultimately detrimental to the progress of every nation that now seeks to profit from such young workers. If moral suasion fails, a pragmatic sense of responsibility to the global economy would dictate that we not doom our world’s future generations by seeking quick profits now, while imperiling the health and well being of the adult workers of tomorrow. The ILO has commented very aptly that “[w]orld political and social stability and security is difficult to envision if such large numbers of people continue to be trapped in cycles of poverty or see few opportunities in a global system that seems discriminatory and unfair.”⁹⁷ For those who deem the nexus between poverty and child labor a myth, it might be appropriate to point out that very rarely on this planet do rich children work, and certainly not in the gruesome conditions that afflict the children who form the subject of this article. According to the International Food Policy Research Institute, a study in 1996 established that “child labor declines as a country’s income rises.”⁹⁸ When families have enough adult-generated income so that they are not dependent on their children, child labor is eliminated. The experience of the developed world since the nineteenth century establishes this truism.⁹⁹ Cathryne Schmitz has explained that “[p]ersistent poverty fuels the perpetuation of abusive child labor. When the income level of a country increases, the incidence and proportion of child laborers decrease.”¹⁰⁰

Finally, while in no way diminishing the other causes of child labor—including a desire for consumer goods, cultural traditions, even religious traditions—this article emphasizes poverty because it is without a doubt the most pervasive and most insidious reason why millions of children forfeit their childhood to help their families survive and their employers thrive.

There is a national dimension as well to the issue of poverty and its linkage to many societal ills like trafficking, slavery, terrorism, drug use, crime, and child labor. Far from lessening the wealth disparities between rich and poor nations, it

96. *Id.*

97. ILO, Report of Director General to the 91st International Labour Conference, *Working Out of Poverty* (2003), available at <http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/kd00116.pdf>.

98. International Food Policy Research Institute [IFPRI], *Children at Work*, IFPRI FORUM, Sept. 2006, at 10, available at <http://www.ifpri.org/pubs/newsletters/ifpriforum/ifl16.pdf>.

99. The Economist, *Free Trade Will Result in Less Child Labor*, in CHILD LABOR AND SWEATSHOPS 40, 42 (Ann Manheimer ed., 2006).

100. SCHMITZ, *supra* note 19, at 2-3.

seems as though the globalized market place has blessed some countries, and sometimes particular groups in those nations, while neglecting other regions and nations altogether. India is often cited as the classic example. The country has a flourishing and growing middle class dedicated to assertive consumerism, but it also has a languishing pool of rural poor who are exploited and brutalized much as they were when the British ruled India until 1947.¹⁰¹ The global expansion of multi-national enterprises has favored parts of India because the democratic traditions of government, the existence of a well-educated and skilled labor force and the pervasiveness of English as a functioning language, enable these foreign corporations to outsource work from the West at much lower labor cost.¹⁰² In turn, Indian manufacturers sub-contract some of the toughest parts of their production chain. It is in these sectors that child labor and other similar abuses can creep into the process.¹⁰³ The international production system now in place is viewed as desirable by governments. These governments compete avidly with tax write-offs and other inducements to bring foreign corporations to their countries.¹⁰⁴ Low labor costs and minimal regulatory supervision are perceived as advantages. Both, however, are very detrimental to the objectives of eliminating and eradicating employment evils like slavery and child labor. Often, when the benefits offered to the foreign corporation have expired, the company moves elsewhere in response to an equally welcoming invitation, issued by the cash-poor representatives of another developing country.¹⁰⁵ The economic losses sustained by the first nation can be devastating as jobs literally vanish overseas overnight. Governments find their tax base dwindling, and resort to borrowing money from the world's markets, an action that necessitates belt-tightening, and the reduction of vital programs like health, education, and child services.¹⁰⁶ The downward spiral eventually reaches into almost every family, and when the savings evaporate the only method to sustain the family is for every person who can work to do so. This is how globalization and the proliferation of an international market can, on occasion, result in an increase in child labor and other such evils. It is only when globalization is implemented with a conscientious commitment not to exploit, but to mutually benefit, that poverty might diminish and its manifestations like child labor can be eliminated.

B. Child Labor in Hazardous and Dangerous Occupations

If the world collectively believes, as near-universal adherence to the Convention on the Rights of the Child would indicate, that child labor has to be eradicated, the first priority has to be to free children from the torment of what are deemed to be hazardous occupations—including those that are now categorized as the worst forms of labor because they pose such threats to the health and moral welfare of children. According to Michele Jankanish, the “worst forms of child

101. *Id.* at 106-07.

102. *Id.* at 103.

103. *See generally id.* at 103-04.

104. Child Labor Public Education Project, *supra* note 83.

105. *Id.*

106. *Id.*

labour” perceived by the ILO include, slavery, trafficking, debt bondage and serfdom, military recruitment of children, abuse of children for prostitution, pornography, drug trafficking, and any other type of work which threatens the “health, safety and morals of children.”¹⁰⁷ Author Carol Yeakey has appropriately emphasized the difficulties involved: “The challenge of preventing and eradicating extreme violations of children’s rights illustrate the layers of want, discrimination and exploitation that drive humanity’s poorest children into obscure and dangerous worlds.”¹⁰⁸

According to the ILO, any child under eighteen is deemed under-age for hazardous work when health, safety, and morals are concerned.¹⁰⁹ Additionally some occupations are deemed as the worst forms of child labor. While the process of categorization is significant in terms of enabling appropriate classification and enumeration, the important point to note is the extent of human misery and degradation involved in any form of exploitative labor for the most vulnerable element in any society, its children.

Concern expressed in many countries about the plight of children exposed to so many different types of hazards impelled the International Labour Organization to initiate a Convention on the Worst Forms of Child Labour, which was adopted in 1999.¹¹⁰ This initiative made the elimination of the worst forms of child labor an urgent priority.¹¹¹

It was estimated as of 2005 that of the 246 million children at work, approximately 171 million worked in hazardous situations or conditions that were deemed dangerous for their welfare.¹¹² Of this figure, the majority—or 111 million children—were under the age of fifteen,¹¹³ a fact that highlights the urgent requirement for the world to take effective action to eradicate child labor globally. The category universally deemed as the worst form of child labor had, as of the 2005 data, 8.4 million children in its grip.¹¹⁴ The authors Cigno and Rosati appropriately described this statistic as “stunning.”¹¹⁵ The scope of this very serious human rights violation includes forced and bonded labor, which enslaved 5.7 million children.¹¹⁶ An estimated 1.2 million children were victims of

107. ACTION AGAINST CHILD LABOUR 47 (Nelien Haspels & Michele Jankanish eds., 2000).

108. CAROL CAMP YEAKY & JUDITH BROOKS BUCK, 4 ADVANCES IN EDUCATION IN DIVERSE COMMUNITIES: RESEARCH, POLICY AND PRAXIS xv (Carol Camp Yeakey et al. eds., 2006).

109. *Global Child Labour Figures Fall*, *supra* note 8.

110. ILO, Worst Forms of Child Labour Convention, No. 182, June 17, 1999, *available at*: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C182>; ILO, Worst Forms of Child Labour Recommendation, No.190, June 17, 1999, *available at*: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?R190>.

111. Worst Forms of Child Labour Convention, *supra* note 111.

112. International Center on Child Labour and Education, How Many Children Work? http://www.knowchildlabor.org/child_labor/facts.php (last visited Mar. 1, 2009) [hereinafter *How Many Children Work?*].

113. *Id.*

114. *Id.*

115. CIGNO & ROSATI, *supra* note 60, at 1.

116. *Every Child Counts*, *supra* note 30, at 10.

trafficking; 0.3 million were forced into armed conflict; 1.8 million into prostitution and pornography; and 0.6 million into drug production and trafficking.¹¹⁷ In these and other occupations, children are inevitably exposed to diseases, stunting of normal growth, toxic chemicals, and a variety of dangerous perils. To give only one example of such dangers, in Liberia children assist their parents in the occupation of rubber-tapping, working for up to twelve hours a day, "carrying heavy buckets of pesticide-laden latex on their heads."¹¹⁸

There are some indications of possible improvement. The ILO estimated that between its reports of 2002 and 2006 the numbers of children working in hazardous conditions fell by 26 percent.¹¹⁹ From an estimated 171 million in 2000, the figure dropped to 126 million in 2004, and the decline for children from five to fourteen was higher, at 33 percent.¹²⁰ Lest such indicators of possible improvement lead to a sense of comfort about this problem, 126 million children almost form the equivalent of the population of Japan as estimated for 2008.¹²¹

C. Child Labor in Agriculture

Although time and space constraints preclude any detailed analysis of child labor on a sector-by-sector basis, some assessment of the problem in agriculture has to be addressed because the overwhelming majority of children labor in this field—no pun intended. The United States Department of Labor has concluded that "[m]ore of the world's working children are employed in agriculture than in any other sector."¹²² In 1999 the ILO estimated that agriculture was the dominant occupation for child laborers, averaging 70 to 74 percent, and rising as high as 90 to 95 percent in some countries.¹²³ In 2007, the United Nations Food and Agriculture Organization (FAO) estimated that 70 percent of child labor, about 132 million children between five and fourteen years old, was concentrated in the economic sector of agriculture.¹²⁴ Children comprise one-third of the worldwide agricultural work force.¹²⁵ It is a truism that "child labor rates are higher in rural areas, where the work is predominantly agrarian."¹²⁶

117. *How Many Children Work?*, *supra* note 113.

118. Zoe Chafe, *supra* note 25.

119. *Global Child Labour Figures Fall*, *supra* note 8.

120. ILO, Report of Director General to the 95th International Labour Conference, *The End of Child Labour: Within Reach* 6-7 (2006), available at <http://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-i-b.pdf>.

121. Central Intelligence Agency, *The World Factbook: Japan*, <https://www.cia.gov/library/publications/the-world-factbook/geos/ja.html#People> (last updated Feb. 24, 2009).

122. JOAQUIN F. OTERO, U.S. DEP'T OF LABOR, 2 BY THE SWEAT AND TOIL OF CHILDREN: THE USE OF CHILD LABOR IN U.S. AGRICULTURAL IMPORTS & FORCED AND BONDED CHILD LABOR 29 (1995), <http://www.dol.gov/ilab/media/reports/iclp/sweat2/sweat2.pdf>.

123. *Facts and Figures on Child Labour 1999*, *supra* note 2, at 4.

124. Food and Agriculture Organization of the United Nations, *Giving Children Back Their Youth*, (June 12, 2007), <http://www.fao.org/newsroom/en/news/2007/1000591/index.html>.

125. U.N. *Official: End Child Labor On Farms*, UPI, June 13, 2007, http://www.upi.com/Top_News/2007/06/13/UN_official_End_child_labor_on_farms/UPI-64101181729858/

126. SCHMITZ, *supra* note 19, at 5.

Historically, children helped their parents by working on family owned and operated farms. In the twentieth century the growth of large agribusiness corporations placed significant economic strains on small farms and plantations. Globalization has continued and accelerated the colonial trend whereby diverse farming of a variety of crops was abandoned in favor of cash crop production. The involvement of peasants and farmers, who had been self-sufficient for centuries, into the cash economy, sweeping across the world, resulted in serious repercussions which unfold to this day. The change from independent production and usage of food crops to sale of one cash crop and purchase of goods made by others, exposed farmers to a wider spectrum of consumables, but also placed them at the mercy of those who set the prices for cash crops, primarily speculators and middle-men in Western countries. From the perspective of the individual farmer, the economic law of supply and demand poses even more problems. A farmer who labors hard, and produces a larger than normal crop, often finds that the overall price diminishes when he attempts to sell the produce. Additionally, when a number of farmers are simultaneously selling their harvest, prices drop and middlemen reap the benefit.¹²⁷ Dependence on the fickle ups and downs of world market pricing makes farmers extremely vulnerable. The historical emphasis on agricultural sustainability has now been replaced by a concentration on profitability. Sandy Hobbs has commented that:

[The] consequence is to increase and intensify the level of exploitation needed in order for [farmers, peasants] to compete with large agribusinesses. Essentially this means that families have to work longer and harder for smaller returns and have to employ the labor of all their family members for longer and more intensive periods. Children in rural and peasant sectors of the world economy remain a vulnerable and exploited source of labor as a consequence.¹²⁸

When families lose their land for economic reasons, or because of their inability to compete with agribusiness, the ensuing disruption can sometimes result in the children being the only employable members of that unit. Because they are more nimble for a variety of tasks, more passive, easily exploited, and incapable of defending their rights, children are a more desirable work force, particularly for agricultural labor.

The ILO in Convention No. 138 on the Minimum Age for Admission to Employment and in Recommendation No. 146 established a minimum age of fifteen years, but allowed underdeveloped economies to lower that minimum age to fourteen.¹²⁹ The Convention sought to address the issue with respect to "plantations and other agricultural undertakings mainly producing for commercial purposes," but excluded family holdings geared to local consumption.¹³⁰

127. See generally SEABROOK, *supra* note 79.

128. SANDY HOBBS, CHILD LABOR: A WORLD HISTORY COMPANION 6-7 (1999).

129. ILO, Minimum Age Convention, art. 2.3-2.4, No. 138, June 19, 1976, available at: <http://www2.ohchr.org/english/law/ageconvention.htm>; ILO, Minimum Age Recommendation, No. 146, June 25, 1973, available at: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?R146>.

130. ILO, Minimum Age Convention, *supra* note 130, at 5.3; ILO, Minimum Age

The labor of children also assists large agribusiness enterprises in the harvesting of crops and in other work, much of it very dangerous for their health and development. UNICEF has estimated that children involved in commercial agricultural work constitute about a third of the work force in some countries.¹³¹ In Brazil, children are put to work harvesting cane for sugar plantation companies, where they are required to use machetes that put them at risk of being mutilated.¹³² According to one estimate, approximately one-third of the workers in El Salvador's sugarcane plantations are children younger than eighteen.¹³³

There has been significant concern in the United States of America, particularly in agricultural areas of California, about the utilization of child labor from migrant families who work seasonally harvesting crops. Based primarily in Mexico and Central America, these migrants bring their children to the United States, where "[d]ire poverty forces many farmworker parents to risk their children's educational future by asking them to help augment family income helping to harvest crops."¹³⁴ The exposure of children to exhausting work, inclement weather, pesticides, fertilizer, and other perils can result in life-long health and developmental problems. Accusing the United States Government of failing to protect these children, Human Rights Watch pointed out that "[h]undreds of thousands of children work under dangerous and grueling conditions as hired laborers in US agriculture. These children risk serious illness, including cancer and brain damage, from exposure to pesticides and suffer high rates of injury."¹³⁵ The same organization pointed out that children in agriculture suffer 40 percent of work-related fatalities involving minors,¹³⁶ and it concluded that "[a]griculture is the most dangerous occupation open to minors in the United States."¹³⁷

The ILO found that "in rural areas, more children die of exposure to pesticides than from the most common childhood diseases put together."¹³⁸ Children in the developing world who are employed in agriculture "tend to have lower weight and life expectancy at birth, higher mortality and morbidity rates, greater incidence of malnutrition, and lower school enrollment and completion rates than do urban children. This combination of risks makes rural working children especially vulnerable."¹³⁹

Recommendation, *supra* note 128.

131. Camp Yeakey & Brooks Buck, *supra* note 68, at 299.

132. *Id.*

133. *El Salvador: Child Labor on Sugar Plantations*, HUMAN RIGHTS WATCH, June 9, 2004, <http://www.hrw.org/en/news/2004/06/09/el-salvador-child-labor-sugar-plantations>.

134. Child Labor Coalition, *Children in the Fields: Inequitable Treatment of Child Farmworkers* (2007), <http://www.stopchildlabor.org/Consumercampaigns/fields.htm>.

135. *Monthly Email Update: Urge the United States to Protect Child Farmworkers*, HUMAN RIGHTS WATCH, Apr. 2001, <http://199.173.149.140/update/2001/04.html#4>.

136. *Abusive Child Labor Found in U.S. Agriculture*, HUMAN RIGHTS WATCH, June 19, 2000, <http://www.hrw.org/en/news/2000/06/19/abusive-child-labor-found-us-agriculture>.

137. Victoria Riskin & Mike Farrell, *Profiting on the Backs of Child Laborers*, L.A. TIMES, Oct. 12, 2000, at B11.

138. Camp Yeakey & Brooks Buck, *supra* note 68, at 299.

139. OTERO, *supra* note 123, at 38.

The National Consumers League (founded 1899), through the Child Labor Coalition, complained in 1999 about the “dismal” record of the United States Congress with respect to supporting international anti-child labor initiatives.¹⁴⁰ In fairness, it has to be pointed out that the United States has allocated approximately \$30 million per year to international programs working to end exploitative child labor.¹⁴¹ Given the scale of the problem, it will take more than money to improve this situation.

The utilization of children in agricultural enterprises of all types is global. In Tanzania, children are expected to perform a variety of tasks on tobacco plantations, including clearing the fields, sowing the seedlings, fertilizing the plants, and plucking tobacco leaves.¹⁴² Children are exposed not just to extremely tiring work, but to possible snake bites, sickness, and injuries.¹⁴³ Children are paid twelve cents per day in Madagascar for picking vanilla orchids between 4:00 a.m. and 7:00 a.m. and for harvesting vanilla beans.¹⁴⁴ A 1999 survey of child work activities in South Africa concluded that labor in commercial agriculture qualified as high-risk for children.¹⁴⁵ In Egypt, small children are selected to pick delicate jasmine flowers at night because the essence is the purest at this time.¹⁴⁶ These children work barefoot in the mud without lights, and are subject to caning if they stop to avoid the swarms of mosquitoes prevalent in those fields.¹⁴⁷ Jasmine is a favored ingredient in the expensive perfumes and cosmetics that adorn women in the developed world. In Mexico, approximately fifty thousand children between the ages of five and fourteen work each year to harvest tobacco, and expose themselves to pesticides and nicotine as they work.¹⁴⁸ Children in India, employed to roll a form of local cigarette, suffer high rates of tuberculosis and other lung diseases.¹⁴⁹ In Egypt, where the cash crop is cotton, over one million children work to remove insects from the cotton plants.¹⁵⁰ Children in Ecuador have worked in banana plantations, while airplanes sprayed fungicides from above.¹⁵¹ In some Latin American and Asian farms children are tasked to hold up flags to

140. Press Release, Child Labor Coalition, Child Labor Abuses Remain a Problem in the U.S., The Child Labor Coalition's Response to the State of the Union Address (Jan. 1999), <http://www.stopchildlabor.org/pressroom/childpr122.html>.

141. Riskin & Farrell, *supra* note 138, at 11.

142. *About Child Labour: Children at the Tobacco Estates*, ECLT FOUNDATION, ¶ 6, <http://www.eclt.org/about/tobacco.html> (last visited Feb. 11, 2009).

143. *Id.* ¶ 7.

144. OTERO, *supra* note 121, at 44.

145. Judith Streak, *Harvesting Childhood: Causes, Nature and Impact of Child Agricultural Labour*, 5 HSRC REV., No. 3, 6 (Sept. 2007) (Human Scis. Research Council, Pretoria, South Africa), available at <http://www.hsrc.ac.za/index.php?module=pagesetter&type=file&func=get&tid=25&fid=pdf&pid=20>.

146. OTERO, *supra* note 123, at 41.

147. *Id.*

148. Reality Check, End Child Labor Involved in the Manufacturing of Tobacco Products, ¶ 4 (Jan. 11, 2008), <http://www.gopetition.com/online/16295.html>.

149. *Id.* ¶¶ 5-6.

150. HUMAN RIGHTS WATCH, BACKGROUNDER: CHILD LABOR IN AGRICULTURE, ¶ 4 (2002), <http://www.hrw.org/legacy/backgrounder/crp/back0610.htm>.

151. *Id.* at ¶ 11.

guide planes spraying pesticides.¹⁵² These child workers rarely wear any protective clothing and suffer direct exposure.¹⁵³

An idealized version of agrarian life envisions children working in a healthy outdoor environment, getting lots of fresh air and exercise, and developing physically because of these benefits. The reality is that one in eight children in agriculture suffer some consequent form of injury or illness.¹⁵⁴ Economists Alessandro Cigno and Furio C. Rosati have concluded that a "child working on a farm is exposed to dangerous tools and machinery, to chemicals, to water, soil and animal-borne infection, to heavy lifting and poor posture, as well as to heatstroke and sheer exhaustion."¹⁵⁵ Where, as in most parts of Africa, agriculture is the mainstay of the economy, the possibility of alleviating the problem of exploitative child labor becomes a real challenge, a problem compounded by tribal and ethnic warfare, refugee crises, terrorism, food shortages, drought and famine, as well as diseases such as HIV/AIDS.¹⁵⁶

Any research of the terrible conditions, to which children working in agriculture are regularly exposed, can only lead to the conclusion that the work definitely falls under the category of "hazardous." Accordingly, the provisions of the Convention on the Worst Forms of Child Labour should apply. These provisions state that the exposure of children to hazardous labor is a matter of urgency, and one requiring expeditious action toward elimination and eradication. There can be little doubt that agricultural work, involving long hours, night labor, exposure to dangerous machinery, and exposure to hazardous substances and chemicals, would qualify under the ILO's Recommendation No. 190.

One of the great tragedies of globalization is that the widespread dissemination of consumer products and foods—a desirable outcome—has been achieved by the exploitation of children and slaves in many parts of the primary producing countries. In recent years, there has been considerable publicity about the connection between the Western world's favorite delectable treat, chocolate, and brutal and oppressive labor practices in the countries where cocoa beans are grown.¹⁵⁷ The shock and outrage in the West have been genuine. Who could have associated the pleasurable consumption of chocolate in our Western world with causing so much misery in African nations like the Ivory Coast and Ghana, which provide the raw material for this most wondrous of sweets? The Ivory Coast produces approximately 43 percent of the cocoa of the world, but has utilized over

152. ILO, *Child Labour in Agriculture* 1 (1999), <http://www.ilo.org/public/english/comp/child/download/pdf/agriculture.pdf>.

153. *Id.*

154. ALESSANDRO CIGNO & FURIO C. ROSATI, *THE ECONOMICS OF CHILD LABOUR* 153-54 (2005).

155. *Id.* at 154.

156. Food & Agric. Org. of the U.N., *Agriculture Accounts for 70 Percent of Child Labour Worldwide*, Sept. 14, 2006, <http://www.fao.org/newsroom/en/news/2006/1000394/index.html> [hereinafter *Child Labour Worldwide*].

157. See, e.g., Carmel Egan, *Bitter Life of Chocolate's Child Slaves*, THE AGE (Melbourne, Australia), Nov. 4, 2007, <http://www.theage.com.au/news/national/bitter-life-of-chocolates-child-slaves/2007/11/03/1193619205911.html?page=fullpage#contentSwap1>.

100,000 children, some of them slaves, in this task.¹⁵⁸ That our love for chocolate should encourage slavery and child labor proved to be an inducement for some international action. In 2001, a meeting of major stakeholders resolved to eliminate the worst forms of child labor in cocoa production.¹⁵⁹ A year later in 2002, the International Cocoa Initiative Working Towards Responsible Labour Standards for Cocoa Growing was founded under Swiss law in order to deal with the agenda of eliminating child labor and slavery in cocoa production.¹⁶⁰ African heads of state also acted by holding summits on cocoa in 2006 and 2007. The African leaders eventually resolved to act to eliminate the worst abuses of child labor from cocoa farms.¹⁶¹ However, in June 2007 proponents of the Global March Against Child Labour reported that approximately 284,000 children still worked in cocoa production in West Africa.¹⁶² Meanwhile, the Dutch manufacturer Royal Verkade decided to use 100 percent Fair Trade cocoa and sugar in its sweets,¹⁶³ a telling and important example of corporate reaction to the expression of outraged world public opinion. Should more corporations pledge to remove child labor and slavery from their product lines, the profit motive—which fuels these two evils in the primary producing nations—would immediately disappear.

Such victories as the Royal Verkade decision are few, but they are significant. These victories highlight the fact that when governments are slow to respond, public opinion, the media, and the Internet can make a very meaningful and constructive difference. Were child labor to become a major topic in international media outlets, the naming and shaming of perpetrators might well result in some alleviation. The last thing any multinational corporation needs is adverse publicity, associating the company with malevolent practices such as slavery and child labor. The challenge, however, is to bring these issues to the forefront of media attention, and to ensure persistent publicity about the problem.

The exposure of dangerous and hazardous work in agriculture is rendered more complicated by the isolation of agrarian life; by the relatively smaller population base; and by the prevalence of the “company town” phenomenon. In such situations, one corporation acts as the sole source of employment, and the workers are in constant fear of jeopardizing that situation, which at least brings them some work and income, albeit with hazardous conditions.

158. *Id.* ¶¶ 3-4.

159. ILO, Int'l Programme on the Elimination of Child Labour, *Combating Child Labour in Cocoa Growing*, ¶ 2 (2005), http://www-ilo-mirror.cornell.edu/public/english/standards/ipecl/themes/cocoa/download/2005_02_cl_cocoa.pdf.

160. *Id.* at ¶ 5.

161. *African Heads of State Move to Eliminate Child Labour from Cocoa Farms*, THE TIDE (Nigeria), Sept. 24, 2007, (on file with Den. J, Int'l Law & Pol.).

162. Press Release, Stop Child Labour in Agriculture: World Day Against Child Labour, Global March Against Child Labour (June 12, 2007), <http://www.globalmarch.org/events/wdacl-2007.php>.

163. 20% Increase in Fair-Trade Chocolate Worldwide, Stop the Traffik Blog, July 16, 2008, <http://stopthetraffik.wordpress.com/2008/07/16/20-increase-in-fair-trade-chocolate-worldwide/>.

It is also true that governments, particularly in developing countries, lack the resources to monitor the agricultural sector.¹⁶⁴ This enables all types of irregularities to persist, and laws are routinely overlooked because there is effectively no enforcement mechanism on site. Rural laborers, particularly in the developing world, are rarely unionized and hence their exploitation is even easier.¹⁶⁵ As the United States Department of Labor concluded: “[t]he use of child labor in agriculture is thus, to a large degree, invisible – uncounted, often undocumented, and little understood.”¹⁶⁶

Globally, as the ILO has complained, “protective legislation is limited in agriculture.”¹⁶⁷ Even where laws exist, implementation is problematic. The problem is the same with respect to small family farms and larger plantations and agribusiness enterprises. Family farms are widely dispersed, scarcely regulated, and part of the informal economy. Quantifying and monitoring the work children and adults perform on family farms is next to impossible without vast bureaucratic teams of inspectors, well beyond the fiscal capacity of most nations in both the developing and developed world. Plantations, particularly those engaged in cash crop production, often hire an adult worker – usually a migrant – who comes, accompanied by children, to accomplish the daily quota of work. The registered worker is the adult. The children, even though they work all day, do not even figure on the documentation and they are not directly paid. When farm owners are inclined to hire undocumented immigrants, the problems of verifying the role of children become even more complex.

There is also a serious lack of knowledge in the rural sectors of most societies regarding the short and long-term health risks of certain practices, such as working with chemicals. Many small farmers and peasants, as well as farm workers, are barely literate, and lack the knowledge that would help to protect themselves and their children from exposure to toxic materials. Ironically, it is only when the middle and upper classes get sick from eating a particular contaminated food such as spinach or lettuce that the issues of hygiene in the fields and pertaining to the crops are rigorously investigated.

One consequence of the deterioration of rural patterns of life, and of traditional village societies has been the migration to cities and towns of the youngest and brightest children.¹⁶⁸ The diminution of any chance of an economically viable way to make a decent living in the villages pushes young people to urban centers, both for individual and for family survival. Urban centers have grown with resulting slums, over-crowding, inadequate water and sewage facilities, filthy living conditions, and crime, resulting in the drastic deterioration of the standard of living. The problem is most pronounced in the poorer countries

164. OTERO, *supra* note 123, at 29.

165. See, e.g., Jadir Atunes, *Brazil: The WTO and Lula's 'Struggle' for the G-20*, WORLD SOCIALIST WEB SITE, Jan. 24, 2007, <http://www.wsws.org/articles/2007/jan2007/braz-j24.shtml>.

166. OTERO, *supra* note 123, at 22.

167. *Child Labour in Agriculture*, *supra* note 153, at 2.

168. See, e.g., U.N. Office for Coordination of Humanitarian Affairs, *Kyrgyzstan: Increase in Rural Youth Migration to Cities*, Aug. 17, 2005, <http://www.irinnews.org/Report.aspx?ReportId=28893>.

of the world, where, by one estimate, in 1950 approximately 17 percent of the population was urban.¹⁶⁹ By 2000, this had jumped to 40 percent, and it is forecasted to rise to 57 percent by 2025.¹⁷⁰ This rapid movement from rural to urban areas has increased the incidence of child labor.¹⁷¹ Although most children labor in the agricultural sector, ironically, the destruction of agrarian life results in additional risks to such children who wind up begging on the streets, or living lives of abject poverty in the slums of large cities like Mumbai, India; Djakarta, Indonesia; and any number of other similar places.

The destruction of rural life globally has also resulted in a worldwide flow of migrants searching for work in richer parts of the world. This globalized labor movement has led to the phenomenon of remittance families—whether in India, Cuba, Mexico, the Philippines, or in many other parts of the world—where parents and younger siblings are left behind, subsisting largely on the regular influx of money sent home by the member who has gone abroad to work.¹⁷² Their dependence on the departed family member is critical to their survival. Any diminution of that inflow of capital subjects the family in the home country to a lower standard of living. This is why an economic crisis, causing high levels of unemployment in the United States of America, can have dire consequences in rural India, villages in Africa, small towns in Central America, and in various parts of the world, where the loss of employment of the outside family member can push the entire dependent group to poverty and its consequent ills, such as child labor and slavery. Whether in a hundred years globalization will be perceived as a blessing or a curse remains to be seen. There have been benefits, but the problems do require urgent international attention if the world economy is to thrive.

Although the problems of child labor are quite daunting given the scope and number of children involved, globalization itself provides us with the tools to address this. I am not here considering the international law instruments, and domestic laws that prohibit such practices. Extensive research in this area can generate a sense of resignation to the reality that such laws are routinely violated and transgressed across the planet, and that such conventions and legal directives are not necessarily going to be the panacea once envisioned for the world's children. These fine words are inspirational, and do provide an international standard and an ideal to be achieved. In the field, no pun intended, these words are quite meaningless without some very strong supports. These would, in a committed and dedicated program to implement the international conventions, include economic assistance to small farmers to sell their crops at a fair market value, providing for consistent family income and enabling parents to hire adult workers instead of utilizing their children; the building of rural schools with provisions for electricity and computing services in rural areas, enabling children to participate in online educational programs and spend their day learning, even

169. CHILD LABOR: A GLOBAL VIEW 3 (Cathryne L. Schmitz et al. eds., 2004).

170. *Id.*

171. *Id.*

172. See John Page & Sonia Plaza, *Migration Remittances and Development: A Review of Global Evidence*, 15 (Supp. 2) J. OF AFRICAN ECONOMIES 245, 246 (2006).

while they are at home; the foundation of small credit banks with fair interest rates to prevent farmers from resorting to money-lenders and loan sharks; the insistence that agribusiness enterprises globally document, account for, and pay every employee on the basis of established wage structures. Additionally, such enterprises must be compelled to provide on-site benefits such as drinking water, safety clothing, day care for infants, toilet facilities for field workers, and so on.

There is a role for local governments in certifying that the agricultural products sold on the world market are not tainted by either slavery or child labor. This type of certification, now used in some economic sectors, would provide one of the best assurances that child labor is not being used. When employers realize that the cheap labor of children hinders, rather than facilitates their sales, they are unlikely to employ them. Were sovereign governments to dictate severe penalties for such use, including confiscation of the enterprise and even jail terms for perpetrators, the resort to child labor and slavery could be considerably decreased. For those who would doubt that governments around the world would be honest enough in the certification process as to meaningfully inspect and verify the compliance of enterprises with the law, one might point to the fact that we are blessed today with a world-wide communications network that is so all-encompassing that, if an infraction occurs in one country, the knowledge is disseminated globally in seconds.

If our farming communities around the world are equipped someday soon with electricity and computers, even if government servants become bribed accomplices in the commission of such crimes, the entire community could act to generate worldwide exposure. It is evident that even the most troubled parts of the world, specifically in Africa, have adopted technological innovations like the cell phone with an enthusiasm that is quite amazing, and have now utilized that gadget for ever more innovative purposes such as transfers of money and so on.¹⁷³ Where globalization has caused a proliferation of the problems associated with child labor and the misery that ensues, it might be timely to utilize the tools and methods of globalization to remedy the problem, and alleviate the lives of millions of our most precious persons—the children of our world.

The first step would have to be taken with respect to child labor in agriculture. Aside from the sheer numbers of children engaged in agriculture, a significant proportion of such work is hazardous in a number of ways for child physical development and wellbeing. As Jennie Dey DePryck, Chief of the United Nations Food and Agriculture Organization's Rural Institutions and Participation Service, has stated: "[i]f we want to eliminate the worst forms of child labour, greater effort needs to be made to address child labour in agriculture."¹⁷⁴

D. Child Labor in Armed Conflict

Any assumption that the world was a more peaceful place during the latter half of the twentieth century because the Cold War had somehow averted a Third

173. See, e.g., Shashank Bengali, *Cell Phones Power Financial Revolution in Africa*, MCCLATCHY WASH. BUREAU, Feb. 10, 2009, <http://www.mcclatchydc.com/world/story/61909.html>.

174. *Child Labour Worldwide*, *supra* note 157, ¶ 17.

World War, is belied by the fact that in that period there were well over a hundred wars. These wars ranged from tribal and ethnic conflicts fought in small geographical areas, to significant and deadly national conflicts such as those between India and Pakistan and between Israel and various Arab states. Indeed, one consequence of the Cold War was the emphasis on the patron-client relationship between the two superpowers (U.S.A. and U.S.S.R.) and smaller, less powerful nations that depended on these mighty nations for arms, financial aid, and support at the United Nations.¹⁷⁵ Superpowers fought each other to the last drop of the client state's blood. Whether the arena was Central America, or the Middle East, or Africa, the deadly conflicts destabilized countries that were desperately trying to create viable governing systems after their long and economically draining experience with colonialism. Ironically, when the superpowers personally got involved in conflict, such as the American experience in Vietnam and the Soviet debacle in Afghanistan, the consequence was more than painful both militarily and on their national psyche.

War-ravaged states were prey to economic predators such as the raiders who looted diamonds in Africa and sold them for guns, resulting in global concern about the so-called "conflict diamonds." The instability of governments, particularly in Africa, put civilians at the mercy of bands of thugs who roamed the countryside looting, pillaging, and destroying homes and crops. While the period between 1945 and the present has not seen a global war, it has been witness to extreme terror, genocide, and human rights violations in a number of countries. These modern manifestations of war rarely adhere to any traditional rules of war, or any prohibitions against the abuse of civilians. Whether the particular conflict is classified as a rebellion, an act of terrorism, guerrilla warfare, civil war, a war to pursue national self-determination, or any other title, for civilians the consequences are invariably horrifying. Commenting on the changing nature of modern warfare, Radhika Coomaraswamy, Special Representative of the Secretary-General for Children and Armed Conflict, has explained that the distinction "between civilians and combatants is becoming increasingly blurred."¹⁷⁶ The intra-state nature of these conflicts, and the religious and ethnic polarization that promotes such violence have resulted in wars that are far more brutal and more directed at civilian targets.¹⁷⁷ UNICEF has estimated that civilian casualties of such conflicts in recent decades account for over 90 percent of the associated deaths, with approximately half of those being children.¹⁷⁸

175. Kingsley Banya & Juliet Elu, *The Dilemma of Child Soldering in Sub-Saharan Africa*, in 4 ADVANCES IN EDUCATION IN DIVERSE COMMUNITIES RESEARCH, POLICY AND PRAXIS 177, 181-82 (Carol Yeakey et al. eds., 2006).

176. Press Release, Office of the Special Representative of the Secretary General for Children and Armed Conflict, Human Rights Council: Changing Nature of Warfare Makes Children More Vulnerable (Sept. 9, 2008), <http://www.un.org/children/conflict/pr/2008-09-09189.html> [hereinafter *Changing Nature of Warfare*].

177. See generally Banya & Elu, *supra* note 176 at 177-206.

178. UNICEF, *Children in Conflict and Emergencies*, http://www.unicef.org/protection/index_armedconflict.html (last visited Feb. 10, 2009).

Most horrifying of these human rights violations has been the proliferation of the use of children in armed conflict. This has resulted in utilization of children by rebels, military detention of children, and the emergence of child suicide bombers. This crisis has in recent times prevailed in parts of Africa, Asia, Latin America, Europe, and the Middle East.¹⁷⁹ In most of these regions, the use of children is ongoing. Special Representative Coomaraswamy highlighted the activities of Burma, Sudan, and Uganda, and the recruiting of children by the Tamil Tigers in Sri Lanka and by rebel groups in Colombia, Burma, and Sudan.¹⁸⁰

In a number of countries children have been kidnapped and forced to become child soldiers, a clear and egregious violation of international law, and a practice that involves state and non-state actors, conventional armies, and terrorist groups. It is quite difficult to enumerate with absolute precision the numbers of children involved, and hence the statistics diverge. The Coalition to Stop the Use of Child Soldiers concluded in its *Global Report 2008* that the "military recruitment of children (under-18s) and their use in hostilities is a much larger phenomenon that still takes place in one form or another in at least 86 countries and territories worldwide."¹⁸¹ In October 2008, the United States Department of Labor estimated that there were over 300,000 children under the age of eighteen fighting as child soldiers in over thirty countries.¹⁸²

Children have also been used to perform menial chores for armies on the move. They have been brutally used as sex slaves by these marauding paramilitary bands. The range of activities inflicted on children is very extensive. They are "used in armed conflict as soldiers, spies, guards, human shields, human minesweepers, servants, decoys and sentries."¹⁸³ Children have been tortured, raped, mutilated, humiliated, and degraded on a scale that is almost incomprehensible in terms of the horrors to which they have been subjected. Cathryne Schmitz has estimated that a combination of poverty, isolation, and upheaval make children vulnerable. She has also emphasized the large numbers involved, stating that as "many as three hundred thousand child soldiers as young as eight years of age have recently been used in at least thirty-three armed conflicts globally."¹⁸⁴ The widespread nature of this brutal phenomenon can be gauged by the efforts of the United States Department of Labor to fund research and initiatives dealing with child soldiers in Afghanistan, Liberia, Sierra Leone, Uganda, Burundi, Democratic Republic of Congo, Republic of Congo, Rwanda,

179. *Changing Nature of Warfare*, *supra* note 177.

180. *Id.*

181. Coalition to Stop the Use of Child Soldiers, *Child Soldiers: Global Report 2008*, 12 (2008), http://www.childsoldiersglobalreport.org/files/country_pdfs/FINAL_2008_Global_Report.pdf [hereinafter *Child Soldiers: Global Report 2008*].

182. U.S. Dep't of Labor: Bureau of Int'l Labor Affairs, *Children Affected by Armed Conflict*, www.dol.gov/ilab/programs/ocft/armedconflict.htm (last visited Feb. 13, 2009) [hereinafter *Children Affected by Armed Conflict*].

183. U.S. Dep't of Labor, Bureau of Int'l Labor Affairs, *The Worst Forms of Child Labor*, in *CHILD LABOR AND SWEATSHOPS* 21 (Ann Manheimer ed., 2006).

184. SCHMITZ, *supra* note 19, at 7.

and the Philippines.¹⁸⁵ The Lord's Resistance Army in Uganda has particularly targeted children for recruitment in its war against the Ugandan Government.¹⁸⁶ Some children who attempted to escape were ruthlessly clubbed or bayoneted to death.¹⁸⁷

Once captured, these children have been subjected to bestiality of a kind that is beyond description. As part of their initiation into the environment of violence, they can sometimes be forced to kill members of their own families.¹⁸⁸ In addition to committing murder, children are made to witness gruesome torture to desensitize them to violence. In order to turn them into willing killers, they are required to indulge in mutilation, often of young children and babies, cannibalism, and the commission of genocide, as occurred in Rwanda in 1994. Approximately twenty thousand civilians, half of them children, suffered forcible amputation, some at the hands of child soldiers, during the bloody and brutal war between 1991 and 2002 in Sierra Leone.¹⁸⁹

Children involved in armed conflict are routinely given access to drugs to numb them sufficiently to tolerate the brutality they witness. In an interesting and compelling study authors Kingsley Banya and Juliet Elu have described the phenomenon of child soldiers, with particular reference to Africa. They point out that "child soldiers become model soldiers. They are preferred because blessed with great endurance, the ability to survive on relatively little food and water, child soldiers accept orders with few questions."¹⁹⁰

Most shocking of all is the fact that children are being forcibly recruited, not just into the paramilitary bands of roving renegades, which have terrorized millions of civilians, but also into national armies. According to an article in the International Herald Tribune, "Burma's military regime may have the largest number of child soldiers in the world. Thousands of children serve in Burma's national army, swept up in massive recruitment drives to offset high rates of desertion and a lack of willing volunteers."¹⁹¹ Jo Becker, Children's Rights Advocacy Director for Human Rights Watch, has deplored the fact that China's influence in favor of its ally, the military regime that rules Burma, has precluded the United Nations Security Council (in which China occupies a permanent seat) from acting decisively to rectify the Burmese Government's abuse of its children.¹⁹² Burma has simply denied that it utilizes child soldiers. Becker concludes: "[i]t's hard to decide whose actions are more shameful – Burma's

185. *Children Affected by Armed Conflict*, *supra* note 183.

186. *Armed Conflict: Child Casualties of War*, HUMAN RIGHTS WATCH, 2006, <https://199.173.149.140/reports/2001/children/9.htm>.

187. *Id.*

188. Aisling Ireland, *Sierra Leone - Human Rights*, BELLAONLINE, <http://www.bellaonline.com/articles/art24082.asp>.

189. Greg Campbell, *Blood Diamonds*, AMNESTY INTERNATIONAL USA, <http://www.amnestyusa.org/amnestynow/diamonds.html>.

190. Banya & Elu, *supra* note 176, at 184.

191. Jo Becker, *Child Soldiers and the China Factor*, INTERNATIONAL HERALD TRIBUNE, Sept. 12, 2008, available at <http://www.ihf.com/articles/2008/09/12/opinion/edbecker.php>.

192. *Id.*

exploitation of children as soldiers or the Security Council's failure to condemn the practice."¹⁹³

In August 2008 the Secretary General of the United Nations reported that in Chad children continued to be recruited into the Chadian National Army, despite commitments by the government of that country to stop this practice and demobilize children.¹⁹⁴ The ongoing conflict in Darfur has resulted in recruitment of children by both the government and the rebels.¹⁹⁵ Sima Samar, United Nations Rights Rapporteur in Sudan, condemned the widespread use of children in the conflict, labeling the practice a "clear violation of international human rights law."¹⁹⁶

Pointing out that recruitment of children is a war crime, UNICEF revealed the plight of thousands of Colombian children forced into armed groups. UNICEF has reported that, "[i]n 2003, according to the UN Secretary General, 7,000 children in Colombia were in the ranks of armed groups, and an additional 7,000 were involved in urban militias."¹⁹⁷

Children as young as five have been kidnapped and conscripted in countries like Nepal.¹⁹⁸ The possible use or abuse of children by terrorist organizations has also garnered much attention in recent years. Some religious schools in Pakistan were reportedly recruiting and training children as young as seven for work as militants and suicide bombers.¹⁹⁹ The youth of these child warriors makes it difficult for an opposing conventional army to fight back in a determined manner. For instance, in the Philippines government forces were urged whenever possible to arrest rebel child soldiers and hand them to social workers.²⁰⁰

For those children trapped in this cycle of violence, the road back is extremely difficult. They suffer from a variety of psychological and physical problems; their health is severely compromised. The emotional scars on such young minds continue for years. Kidnapped girls in particular are the victims of continuous rape and some become mothers while in captivity. Demobilization has been the goal of

193. *Id.*

194. Letter from Steve Crawshaw, United Nations Advocacy Director, to UN Security Council members on Child Soldiers in Chad, Sept. 3, 2008, *available at* <http://www.hrw.org/en/news/2008/09/03/letter-un-security-council-members-child-soldiers-chad>.

195. Opheera McDoom, *Khartoum, Darfur Rebels Use Child Soldiers-UN Rights*, REUTERS, July 10, 2008, <http://www.alertnet.org/thenews/newsdesk/MCD055318.htm>.

196. *Id.*

197. UNICEF, *Armed Groups in Colombia Stealing Childhood From Girls and Boys Alike*, Aug. 25, 2008, http://www.unicef.org/infobycountry/colombia_45354.html.

198. *See generally Ex Nepalese Child Soldiers More Likely to Have Mental Health Problems*, THAIINDIAN NEWS, Aug. 13, 2008, http://www.thaindian.com/newsportal/entertainment/ex-nepalese-child-soldiers-more-likely-to-have-mental-health-problems_10083413.html.

199. U.N. Office for the Coordination of Humanitarian Affairs, *Pakistan: Child Soldiers in Swat Valley*, May 26, 2008, <http://www.irinnews.org/report.aspx?ReportID=78400>.

200. Joel Guinto, *Palace: Child Warriors to be Avoided Unless They Fire First*, INQUIRER.NET, Sept. 18, 2008, <http://newsinfo.inquirer.net/breakingnews/nation/view/20080918-161456/Palace-Child-warriors-to-be-avoided-unless-they-fire-first>.

UNICEF, but accomplishing this aim has been a challenge.²⁰¹ Father Mark Hickey, a priest working in Sierra Leone to help demobilized child soldiers, commented that they “have a total disdain for civilian life.”²⁰² Often their home communities are frightened about inviting trained killers into their midst. Children brought up in a culture of bestiality and violence find it hard to accommodate themselves to the ways of peace and nonviolence. An untold number are drug addicts and even addicted to violence, and developing countries, where such child soldiers are a problem, lack extensive counseling services to guide reintegration back into normal life. When one compares the difficulties that confronted adult Vietnam War veterans in their adjustment back to American life, one can appreciate how much more complex the challenges are facing demobilized child soldiers.

The practice of using children to fight war continues on a global basis, despite the fact that it is a war crime prohibited by the Geneva Convention, which prevents recruitment under age fifteen,²⁰³ and by the Convention on the Rights of the Child.²⁰⁴ Compulsory recruitment of children is classified as one of the “worst forms of child labor” according to the International Labor Organization’s Convention No. 182 adopted in 1999.²⁰⁵ Additionally, the UN Optional Protocol on the Use of Children in Armed Conflict precludes recruitment of children under the age of eighteen.²⁰⁶ This international law instrument entered into force in 2002.²⁰⁷

In 2004 and 2005, the United Nations Security Council adopted Resolutions 1539 and 1612, respectively, “[c]alling for the establishment of a monitoring and reporting mechanism on children and armed conflict,” an agenda that has been implemented and has resulted in far more international awareness about the problem.²⁰⁸ There has been no dearth of global concern about this aspect of child labor, one of its worst manifestations. It is important to note that, although the problem of the abuse of children in military labor is very prevalent in Africa, such action is contrary to the African Charter on the Rights and Welfare of the Child, which enjoins signatories to “take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain, in particular, from recruiting any child.”²⁰⁹

Responding to universal anxiety about the plight of thousands of child soldiers and camp followers, the United States Department of Labor in 2003 hosted an international conference of stakeholders on the issue of *Children in the*

201. *Child Soldiers Riot in Burundi*, THE TIMES, May 14, 2008, <http://www.thetimes.co.za/News/Article.aspx?id=766259>.

202. Banya & Elu, *supra* note 176, at 199.

203. *Id.* at 191.

204. UNICEF, *Armed Groups in Colombia*, *supra* note 198.

205. See Worst Forms of Child Labour Convention, *supra* note 111.

206. U.S. Dep’t of Labor, *supra* note 184.

207. UNICEF, *Children in Conflict and Emergencies*, *supra* note 179.

208. *Child Soldiers: Global Report 2008*, *supra* note 182, at 14.

209. Org. of African Unity, African Charter on the Rights and Welfare of the Child art. 22, July 11, 1999, OAU Doc. CAB/LEG/24.9/49 (1990).

*Crossfire: Prevention and Rehabilitation of Child Soldiers.*²¹⁰ On October 3, 2008, United States President George Bush signed the Child Soldiers Accountability Act, which criminalized the recruitment or usage of soldiers under fifteen, and permitted American prosecution of any individual on United States soil, even if the affected children were in another country.²¹¹ The level of American interest in this matter can be gauged by the fact that this legislation passed unanimously through both the House of Representatives and the Senate.²¹² Its sponsor, Illinois Senator Richard Durbin stated that:

[The] United States must not be a safe haven for those who exploit children as soldiers. Period. The use of children as combatants is one of the most despicable human rights violations in the world today and affects the lives of hundreds of thousands of boys and girls who are used as combatants, porters, human mine detectors and sex slaves. The power to prosecute and punish those who violate the law will send a clear signal that the U.S. will in no way tolerate this abhorrent practice.²¹³

Although there have been a number of expressions of concern, and the production of significant international directives prohibiting the military usage of children, the practice continues and it is unlikely to end in the near future. Exposing thousands of children to such extreme forms of violence and degradation will undoubtedly make for a difficult transition to normal life once the wars that have enslaved them come to an end. Children find it far harder to reintegrate into society than adults.²¹⁴ Having become accustomed to basing their reactions on violence, any adjustment to a more flexible range of non-violent responses is difficult. Sometimes they are so damaged by the violent world in which they operated that their communities and villages cannot accept them back. By not acting decisively to prohibit this terrible abuse of young people, the international community dooms, not just the future of these victims, but the possible path back to peace for their entire societies. Carol Bellamy, Executive Director of UNICEF, has stated that “[c]hild soldiers are a symptom of the wider problem, the complete neglect of whole generations.”²¹⁵

IV. INTERNATIONAL LAW ON CHILD LABOR

Michele Jankanish aptly emphasized the ILO's assertion, stating that “[a]lthough the fight against child labour will not be won through legislation, it certainly cannot be won without it.”²¹⁶ However, it has to be realized that if law

210. *Children Affected by Armed Conflict*, *supra* note 183.

211. Child Soldiers Accountability Act of 2008, Pub. L. No. 110-340, § 2242, 122 Stat. 3735, 3735-36 (2008), available at <http://npl.ly.gov.tw/pdf/6579.pdf>.

212. *United States: Bush signs Law on Child Soldiers*, HUMAN RIGHTS WATCH, Oct. 3, 2008, <http://www.hrw.org/en/news/2008/10/03/united-states-bush-signs-law-child-soldiers>.

213. *Id.*

214. See ILO, *Reintegrating Child Soldiers*, 2003, <http://www.ilo.org/public/english/employment/crisis/download/factsheet3.pdf>.

215. Banya & Elu, *supra* note 176, at 191.

216. Michele Jankanish, *Towards Improved Legislation*, in ACTION AGAINST CHILD LABOUR 41,

alone were able to achieve the effective elimination of child labor, the world would have nothing to worry about with respect to this crisis. M.K. Pandhe, President of the Centre of Indian Trade Unions, explained that the “problem of child labour cannot be tackled by just enacting a law as it does not touch the fringe of the cause of its existence,” which is poverty.²¹⁷ Unfortunately though there are numerous laws, internationally and within states, and innumerable expressions of adherence and commitment, the implementation of these progressive words falls far short of the promises being made.²¹⁸ Perhaps the entire world has to come to the realization that this sort of resort to words, without effective action, is stealing the childhood of millions of children who, if they survive, will grow up to be disaffected, disenchanted, and emotionally scarred adults. Such a realization might generate sufficient will to carry out the progressive legislation that already exists. If we fail to take urgent action in this regard, and continue to exploit children in our zeal for cheap food and consumer goods, we ought not to be unduly surprised if the consequential problems of economic unrest, grinding poverty, terrorism, rebellion, and civil war continue to plague our planet.

By not addressing child labor now, we doom more than simply those children at risk. We also imperil our own future in the West, and—most importantly—that of our children and grandchildren who will undoubtedly pay the price in global societal breakdown for our failure to deal with this crisis. An awareness of our complicity in this tragedy—we are after all the consumers of the products made by these children—may assist us to realize, that individually and collectively, we have to demonstrate enough moral commitment to outlaw this terrible exploitation, not just in word but in deed as well. This section will discuss a few of the significant international conventions that concern child labor, and then, in a separate segment, deal with the most important of all international law instruments, the Convention on the Rights of the Child. No article of this length can cover the plethora of international instruments that deal with the subject of child labor. However, the highlighting of selected examples of such international law on the subject can establish the important point that the legal foundation for the elimination of this heinous practice has already been laid. The problem is not with the absence of law, but with its non-implementation.

International efforts to curb child labor have a long and intricate history. Space and time constraints prevent a full detailed analysis of all the measures approved by the world community. With respect to the twentieth century, it is noteworthy that as early as 1919 an international convention addressed the issue of child labor, and passed the first Minimum Age (Industry) Convention No. 5 which directed a minimum age of fourteen for children working in industry.²¹⁹ Seventy-

43 (Nelien Haspels and Michele Jankanish, ed., 2000) (citing *Child Labour Law and Practice*, in CONDITIONS OF WORK DIGEST (Int'l Labour Org. 1991)).

217. Staff Reporter, *Law Alone Cannot Tackle Child Labour*, THE HINDU, Sept. 12, 2008, available at <http://www.hindu.com/2008/09/12/stories/2008091253790400.htm>.

218. *Id.*

219. ILO, *International Law and Child Labour*, <http://www.ilo.org/public/english/comp/child/standards/index.htm> (last visited Feb. 12, 2009).

two countries ratified that document.²²⁰ The convention was followed by a number of international agreements, which elucidated minimum age requirements for specific economic sectors such as agriculture, 1921; fisheries, 1959; and work underground, 1965.²²¹

In 1924 the League of Nations, predecessor of the United Nations, adopted the Geneva Declaration of the Rights of the Child.²²² That document stated that "mankind owes to the child the best that it has to give," and directed that children be provided with a normal development, and that the "child must be put in a position to earn a livelihood, and must be protected against every form of exploitation."²²³ The issue of exploitative child labor was specifically addressed by the ILO in its 1930 Convention No. 29, which prohibited all forms of "forced or compulsory labour."²²⁴ This has been called "one of the most widely ratified ILO Conventions," and yet the evil practice persists.²²⁵ In 1956 the United Nations called for the abolition of the exploitation of children under eighteen.²²⁶ The United Nations continued its interest in this issue with the 1959 Declaration of the Rights of the Child, which, in Principle 9, specified that "the child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic in any form."²²⁷ With reference to the instant issue of child labor, this Declaration was forthright: "The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development."²²⁸

In its landmark 1966 International Covenant on Civil and Political Rights, the United Nations General Assembly, in Article 8, forbade compulsory labor.²²⁹ That same year the adoption by the United Nations of the International Covenant on Economic, Social and Cultural Rights drew global attention to the issue of child labor in Article 10, which directed nations to "protect young people from economic exploitation and from work that might hamper or prevent their normal development."²³⁰ Both the 1966 Covenants entered into force in 1976.²³¹

220. HOBBS, *supra* note 129, at 142.

221. ILO, *International Law and Child Labour*, *supra* note 220.

222. *Geneva Declaration of the Rights of the Child*, Sept. 26, 1924, League of Nations O.J. Spec. Supp. 21, at 43 (1924), available at <http://www1.umn.edu/humanrts/instree/childrights.html>.

223. *Id.*

224. HOBBS *supra* note 129, at 142.

225. See Panjabi, *supra* note 24 at 27.

226. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, art. 1(d), Sept. 7, 1956, 18 U.S.T. 3201, 226 U.N.T.S. 3, available at <http://www.unhchr.ch/html/menu3/b/30.htm>.

227. Declaration of the Rights of the Child, G.A. Res. 1386 (XIV), at Principle 9, U.N. GAOR, 14th Sess., Supp. No. 16, U.N. Doc. A/4354 (Nov. 20, 1959), available at <http://www.unhchr.ch/html/menu3/b/25.htm>.

228. *Id.*

229. International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), at art. 8, 21 U.N. GAOR Supp. No. 16 at 52, U.N. Doc. A/6316 (Mar. 23, 1976), available at http://www.unhchr.ch/html/menu3/b/a_ccpr.htm.

230. HOBBS, *supra* note 129.

The ILO continued with its valiant efforts to address specific aspects of this crisis by adopting the Convention on the Minimum Age for Admission to Employment in 1973.²³² This Convention, C138, which entered into force in 1976, was an effort to eradicate child labor by requiring ratifying states to raise the minimum employment age.²³³ The general standard, with respect to age, was declared to be “not less than the age of completion of compulsory schooling,” and “in any case, shall not be less than 15 years.”²³⁴ For types of work likely to endanger children, the minimum age adopted was eighteen years.²³⁵

The ILO also established the International Programme on the Elimination of Child Labour (IPEC) in 1992, and by 2005 it was operating in eighty-six countries.²³⁶ With the involvement of a variety of stakeholders including governments, international agencies, community groups, and children and families, IPEC has sought to implement its mandate through action, including “assessment studies, capacity building, legal reform, awareness raising and social mobilization, prevention, withdrawal and rehabilitation of children from hazardous work, and the creation of alternatives for the families of child labourers.”²³⁷

Continuing its extensive activity with respect to children in the labor force, the ILO adopted the Declaration on Fundamental Principles and Rights at Work in 1998.²³⁸ Among other employment rights, this document called for the elimination of child labor.²³⁹ Fulfilling its commitment to awareness-raising, in 2002 the ILO declared June 12th as World Day Against Child Labour.²⁴⁰ Two years later a global economic estimate concluded that the benefits of abolishing child labor would be approximately \$5.1 trillion.²⁴¹ In its assessments of benefits, the ILO suggested that benefits would accrue from the higher incomes earned by children who were educated and healthier because they no longer worked in hazardous conditions.²⁴² By 2006, the ILO felt confident enough—possibly prematurely—to announce that the end of child labor was within reach thanks to the global movement against this practice.²⁴³

The worst forms of child labor, discussed in various sections of this article, also evoked an ILO Convention No. C182 in 1999.²⁴⁴ This Convention requires

231. ILO, *International Law and Child Labour*, *supra* note 220.

232. *Id.*

233. *See generally* ILO, Minimum Age Convention, *supra* note 130.

234. *Id.* at art. 2(3).

235. *Id.* at art. 3(1).

236. *Facts on Child Labour 2006*, *supra* note 44 at 2.

237. *Facts on Child Labour 2005*, *supra* note 4, at 2.

238. *Id.*

239. *Id.*

240. ILO, *World Day Against Child Labour*, <http://www.ilo.org/ipec/Campaignandadvocacy/WDACL/lang--en/index.htm> (last visited Feb. 13, 2009).

241. *Facts on Child Labour 2005*, *supra* note 4, at 2.

242. CHILD LABOR AND SWEATSHOPS 6 (Ann Manheimer ed., 2006).

243. *Facts on Child Labor 2006*, *supra* note 44 at 1; ILO, *The End of Child Labour within Reach*, ix (2006), http://www.ilo.org/public/english/region/ampro/cinterfor/news/inf_06.htm.

244. *See Worst Forms of Child Labour Convention*, *supra* note 111.

ratifying states to eliminate the use of children in illicit activities, prostitution, and the production of pornography.²⁴⁵ It also requires them to prioritize action against the trafficking of children and all forms of forced labour, including the compulsory recruitment of children in armed conflict.²⁴⁶ The Convention was adopted on June 17, 1999, and entered into force on November 19, 2000.²⁴⁷ It applies to all economic sectors and covers all children under the age of eighteen.²⁴⁸

Because many children who become child laborers suffer the additional trauma of being enslaved or bonded, either through capture or because of parental debts, it is important to address the issue of child labor in tandem with the agenda to abolish the crime of slavery. The ILO Committee of Experts annually highlights the issue of bonded labor, including matters involving children. Additionally, IPEC has noted that the issue of childhood labor bondage is an important agenda to pursue.²⁴⁹

It has not been the intention in this section to enumerate every single international instrument that has addressed the issue of child labor. Rather the intent was to emphasize that there are plenty of detailed prohibitions in international law to bring about the legally sanctioned eradication of child labor, if only the world will find the will to abide by these commitments. There is little dispute that the work of the ILO has been pivotal in bringing the world to understand and appreciate both the scale of the problem, and guidance on how to rectify the wrong. According to the ILO, "[o]ne reason why modern societies and governments have not been more active in curbing the most harmful forms of child labour is that working children are often not readily visible. It is a matter of 'out of sight, out of mind.'"²⁵⁰

V. THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (1989)

Of all the international law instruments dedicated to the eradication of child labor and human rights violations involving children, the United Nations Convention of 1989 is generally perceived as among the most important. The fact that it has now been ratified by almost the entire world is a telling gauge of its value to the international community. At time of writing this article, only two countries have not ratified this instrument, Somalia and the United States of America.²⁵¹ The American position will be discussed later in this section. It took approximately ten years from the time of proposal of this Convention to its adoption.²⁵² However, once adopted in November 1989, it was signed and ratified

245. *Id.*

246. *Id.*

247. *Id.*

248. Jankanish, *supra* note 217, at 74.

249. Michael Bonnet et al., *Strategies to Address Child Slavery*, in ACTION AGAINST CHILD LABOUR 185, 197 (Nelien Haspels & Michele Jankanish eds., International Labour Office 2000).

250. ILO, *Child Labour: Targeting the Intolerable*, 16-17 (1998), <http://www.ilo.org/public/english/comp/child/publ/target/target.pdf>.

251. UNICEF, Convention on the Rights of the Child, Frequently Asked Questions, http://www.unicef.org/crc/index_30229.html (last visited Feb. 5, 2009).

252. HOBBS, *supra* note 129 at 37.

expeditiously, and entered into force in September 1990.²⁵³ UNICEF explained that this was the most “widely and rapidly ratified human rights treaty in history.”²⁵⁴

A child is defined by this Convention as a person under the age of eighteen, with due deference to variations in certain national law.²⁵⁵ This international law instrument advances the idea of non-discrimination, emphasizes the best interest of the child as a guiding principle, and enjoins governments to act to protect the children of their state. The rights provided to children include an adequate standard of living, an education, health and health services, and even the right to relaxation and playtime.²⁵⁶ Children are protected from being used for the illicit production of drugs, and in the trafficking of such substances.²⁵⁷ With respect to child labor, the Convention in Article 32 specifies that:

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.²⁵⁸

Article 34 of the Convention calls for states to take all “appropriate national, bilateral and multilateral measures to prevent” the exploitation of children for unlawful sexual practices and pornography.²⁵⁹ Additionally, Article 35 prohibits the abduction, sale, and trafficking of children for any purpose.²⁶⁰ The issue of the use of children in warfare was addressed in Article 38, which calls on states to ensure that children under fifteen do not participate in hostilities, that there shall be

253. G.A. Res. 44/25, *supra* note 6.

254. UNICEF, Convention on the Rights of the Child, *supra* note 252.

255. UNICEF, Fact Sheet: A Summary of the Rights Under the Convention on the Rights of the Child, http://www.unicef.org/crc/files/Rights_overview.pdf (last visited Feb. 8, 2009).

256. *Id.*

257. G.A. Res. 44/25, *supra* note 6, at art. 33.

258. *Id.* at art. 32.

259. *Id.* at art. 34.

260. *Id.* at art. 35.

no recruitment under the age of fifteen, and that children affected by armed conflict will be protected.²⁶¹

As is the usual practice with the United Nations, an elected Committee of ten experts "of high moral standing" was established by this Convention to serve for four years, and to receive regular reports from States Parties on the measures they have taken to implement the provisions of the Convention.²⁶²

The Convention provides an inclusive system for the protection of children, and the acceptance and early ratification of this instrument by most governments testifies to the concern felt internationally about the need to protect this very vulnerable element of society. That the provisions of the Convention have not yet been fully or even adequately implemented ought not to detract from its significance or from the importance of its near universal acceptance. It sets a standard for all nations to follow if they wish to be members of the community of nations. The Convention also provides very specific duties for national governments. In this manner it ensures the continuation of viable family life across the planet by protecting children.

The utilization of the Committee of experts reveals the United Nation's determination to emphasize, and draw world attention to continuing abuses. In 2006 the Committee reminded signatories that the Convention exists to protect children "from economic exploitation," and from hazardous child labor by expressing serious concern about the persistence of corporal punishment, and other forms of degradation involving child employees.²⁶³

The position of the government of the United States of America on this Convention has certainly raised eyebrows across the planet. After all, this Convention has even been acknowledged and lauded by non-state actors such as the Sudan People's Liberation Army (SPLA).²⁶⁴ In failing to ratify this international instrument, the United States has teamed with only one other country, the violence-wracked, war-torn, and failing state of Somalia. Many feel the United States' position is mystifying in light of the obvious commitment demonstrated by previous American governments to the cause of eradicating child labor. United States President Bill Clinton signed the Convention on February 16, 1995, but he and his successor, President George W. Bush, did not initiate the process for ratification by Congress.²⁶⁵ At time of writing, December 2008, incoming President-elect Barack Obama may be able to initiate the cumbersome ratification process, which could bring the rights of the Convention into formal recognition in American law. The president-elect did declare it "embarrassing to find ourselves

261. *Id.* at art. 38.

262. *Id.* at arts. 43-44.

263. Committee on the Rights of the Child, General Comment No. 8: The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment, 42nd Sess., ¶ 36, U.N. Doc. CRC/C/GC/8 (Mar. 2, 2007).

264. UNICEF, Convention on the Rights of the Child, *supra* note 252.

265. Patrick Geary, *United States: Is Obama's Win Also a Victory for Children's Rights?*, CHILD RIGHTS INFORMATION NETWORK, Nov. 5, 2008, <http://www.crin.org/resources/infodetail.asp?ID=18874>.

in the company of Somalia, a lawless land,” and committed himself to reviewing this matter.²⁶⁶

Two Optional Protocols followed the nearly universally accepted Convention on the Rights of the Child. In May 2000, the United Nations adopted the Optional Protocol on the Involvement of Children in Armed Conflicts.²⁶⁷ This instrument entered into force on February 12, 2002.²⁶⁸ The agreement expressed concern about the “harmful and widespread impact of armed conflict on children,” and condemned the “recruitment, training and use within and across national borders of children in hostilities by armed groups.”²⁶⁹ The Protocol directed state parties to ensure that there would be no compulsory recruitment or involvement of persons under the age of eighteen in armed conflict. It is important to note that a concession was made to allow for voluntary recruitment under the age of eighteen.²⁷⁰ However, non-state actors such as armed groups are precluded from recruiting or using any persons under eighteen.²⁷¹ Further provisions call for the demobilization of affected children, social reintegration, and physical and psychological recovery programs.²⁷² The persistent use of child soldiers, and its serious expansion at the turn of the century prompted concerns in the international community that the provisions of the original Convention of 1989 were being violated. The instant Protocol garnered support, most notably in the United States, which ratified this instrument.²⁷³

American President George W. Bush also pledged his country to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, which was adopted by the United Nations in May 2000.²⁷⁴ This Protocol was also ratified by the United States.²⁷⁵ The Protocol, which entered into force on January 18, 2002, articulated grave concern about the “significant and increasing international traffic in children for the purpose of the sale of children, child prostitution and child pornography.”²⁷⁶ The Protocol drew attention to the problems generated by sex tourism, and to the particular threat to girls. It called on state parties to

266. *Id.*

267. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, G.A. Res. 54/263, U.N. Doc. A/RES/54/263 (May 25, 2000), available at <http://www2.ohchr.org/english/law/crc-conflict.htm>.

268. *Id.*

269. *Id.*

270. *Id.* arts. 2-3.

271. *Id.* art. 4.

272. *Id.* art. 6.

273. *Governments Breaking Promises to Children*, HUMAN RIGHTS WATCH, Nov. 10, 1999, <http://www.hrw.org/en/news/1999/11/10/governments-breaking-promises-children>.

274. Government of the United States of America, Consideration of Reports Submitted by States Parties Under Article 12, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Annex 1, delivered to the Committee on the Rights of the Child, U.N. Doc. CRC/C/OPSC/USA/1 (May 10, 2007).

275. *Id.*

276. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, G.A. Res. 54/263, ¶¶ Preamble-1, U.N. Doc. A/RES/54/263 (May 25, 2000), available at <http://www.unhcr.ch/html/menu2/6/crc/treaties/opsc.htm>.

prohibit the “sale of children, child prostitution and child pornography.”²⁷⁷ It urged signatories to criminalize the use of children in forced labor in their own legal systems.²⁷⁸ Additionally, it proposed the seizure of assets obtained from illicit activities.²⁷⁹ Additional provisions suggested support services for victims, and the strengthening of international cooperation to facilitate prosecutions.²⁸⁰

Whether or not these extensive and notable international provisions to protect children, particularly from exploitative labor in its many evil manifestations, will result in the eradication of these human rights violations remains to be seen. It is significant that as a milestone in international cooperation to protect our most vulnerable members of society, the entire world has shown concern and a conscience about the fate of children. The formulations of the United Nations can, however, only be standards and guides. Implementation remains the responsibility of sovereign member states of the United Nations. And they must act resoundingly and decisively, and carry through on the commitments they made when they signed and ratified these three all-important instruments of international law. There is no point in becoming complacent because the world now has international law to support this cause. Until the law is implemented globally, and the practices eliminated universally, these instruments remain just well sounding and well meaning words on paper.

VI. CONCLUSION AND ASSESSMENTS

This article began as an assessment of some aspects of the state of child labor in recent years. It concludes with guarded optimism, and uneasy apprehensions about the future. The 2008 economic meltdown, that has devastated the financial structure of so many countries, does not bode well for the future of child labor. When entire families are driven to starvation, and when poverty pervades entire communities, allowing children to become educated can seem like a luxury—one that no family in plight can afford. The premise of this research was to determine whether or not the state of this problem is to be deemed positive or negative. The conclusion, in terms that are deliberately cautiously optimistic, is that the situation in some countries has definitely improved, and over-all child labor rates are declining. However, for those young children in the grip of working as sex slaves, as soldiers, as farm workers, as matchstick makers, as rug weavers, and in a host of other economic activities, slight improvements provide no consolation. Their lives are brutal, imperiled, cruel, and agonizing. No amount of fine-sounding phrases from the United Nations will make the slightest difference to their lives until strong and assertive action is taken at the local level to free them and provide them and their families with an adequate standard of living.

This research also concludes with an advisory on the necessity for the developed world to address the problem of global poverty in a more meaningful and multilateral manner so that poor nations can become self-sufficient, and break

277. *Id.* at art 1.

278. *Id.* art. 3.

279. *Id.* art. 7.

280. *Id.* arts. 9-10.

the cycle of destitution and degradation, which involves adults and children. Although the incoming American president has a very large agenda, and has to tackle many serious challenges, he has convinced the majority of Americans, and inspired the rest of us to consider the limitless possibilities open to the human mind and spirit.

Focusing on the “Yes We Can” approach, that has made history in the last American election, this research leads to a possible direction for the international community—hopefully with the enthusiastic support of the United States of America. The proposal would be for a multilateral type of development plan, broadly along the lines of the original Marshall Plan, for the least developed nations of the world—those most at risk in terms of slavery and child labor. The plan, also drawing participation from Europe, the industrializing Asian countries, Canada, Australia, Japan, New Zealand, and indeed any other country that wants to be part of it, would provide effective assistance to any developing nation that would undertake to guarantee the implementation of human rights; hold fair and free, monitored elections; establish a democratic system of government; and commit to ending civil conflicts. Plan members would then provide economic aid, for a limited time, to those nations whose members dedicated themselves to achieving their own freedom from oppression.

Additionally and more important, the Plan would provide qualifying developing states with considerable expertise, according to their own needs and requirements—an immediate advantage for the West, in terms of solving the high unemployment rates in the developed world. Such expertise, mainly to teach skills, could deal with everything from establishing infrastructure including electricity, to teaching agricultural techniques, water conservation, environmental consciousness, and other skills aimed at poverty reduction. Instead of a scattered nation-by-nation donor approach to foreign aid, this would be a cohesive, global approach, undertaken multilaterally, and concentrated—not on handouts, which often disappear into the pockets of corrupt dictators—but on empowering entire communities to become more aware of their rights and responsibilities. The goal would be sustainable development and economic self-sufficiency. The training and skills would be imparted to people on the understanding that they would, in turn, train their fellow nationals and carry on the tradition. There is a saying quoted so often at the United Nations that it has almost become a cliché. But like all clichés it bears a measure of truth that cannot be denied: “If you give a man a fish, he will eat for a day. If you teach him to fish, he will eat all his life.”

The key to success would have to be local participation, and an acknowledgment that community concerns would have to be respected. Throwing money at passive recipients only turns them into mendicants and wastes the funds. The history of the twentieth century has proven that time and again. The new plan would be contingent on local initiatives that control tendencies to violence and take charge of law and order. Local populations will have to invest a great deal of themselves in this plan to prove their worth before the rest of the world commits to them. Countries under the sway of dictators like Zimbabwean President Robert Mugabe would have to act decisively to establish visible proof of a democratic government before they could be considered.

There is no assumption being made here that the removal of corrupt dictators and violent renegades will be easy. However, the peoples of each region will have to act decisively to create acceptable conditions for their own betterment. Foreign military intervention has not proven an effective long-term panacea for the ills of dictatorship. Foreigners inevitably generate distrust and spark internal polarization. The examples of Iraq and Afghanistan testify to the dangers inherent in military interventions that are not simultaneously geared towards economic development on a major scale. However harsh it may sound, the people of each region or nation have to sort out their own situation with respect to the acceptance or rejection of dictatorships and civil war. If they choose the path of human rights—a path already deemed as desirable by most nations—then they qualify by degrees of national achievement for the fundamental benefits of the Plan. It is true that displacement of existing corrupt regimes will be difficult. It will be very difficult, fraught with sacrifice and possible tragic loss of life. However, the prevalence of dictatorships in so many poor countries also takes a toll on human life and well being.

A study of twentieth century history could lead to the conclusion that people only value freedom after they have fought for it and achieved it by their own efforts. By giving people a reason to throw off their corrupt governments in favor of self-rule, and by holding out the possibility of a better economic future for their families and communities if they take this initial step, the outside world gives them the incentive to make such bold action feasible and possible. When they have sacrificed, and acted to establish their own locally acceptable form of democratic government they will have a system they will cherish and fight to preserve. The experience of the recent past demonstrates that democracy can very rarely be imposed from outside, unless there is a strong will within the recipient nation to live by and value that type of government.

President-elect Obama has articulated a desire for change in all realms of policy and for new approaches. If the United States of America takes the moral high ground—not in a superior or arrogant way, but to demonstrate its own best qualities by assisting and helping those peoples abroad who have demonstrated an ability to help themselves—then American expertise and aid, as part of a multi-state contribution, would not be feared, or suspected as coming with political strings attached. This democratic initiative would abandon the stale and unproductive foreign policy dependence on *realpolitik*, in favor of an approach that perceives America as part of a global community, where the realization prevails that all of us on this planet have to work together for mutual betterment.

A globalized effort, hinging on participation by many nations with the simple aim of raising the living conditions of the poor nations to an acceptable level, would ensure that in the future both the rich and the poor cooperate, rather than threaten each other. We in the West have already begun to realize that we cannot continue to live as islands of prosperity, while all around us the people of other regions live in grinding poverty and brutality. Our own ultimate security depends on the success of bold new initiatives that can bring the world together, not rip it asunder. If the “Yes We Can” President of the United States can undo, with one stroke, a racial notion that prevailed through all of American history, it might not

be all that daring to think that he and his team can generate dramatic global change as well. If the Obama presidency will not be about politics as usual, then the United States will no longer support dictators because of any *realpolitik* agendas. It will seek instead the honest proliferation of democratic practices both at home and abroad. American ingenuity, which turned a few colonies of rebels into a superpower in less than two hundred years, could work equally significant miracles for the dispossessed, the poor, the enslaved, and the children of the world. By saving the world's children, America will save itself. Although its government commands fear and suspicion in many countries, there is also an international wellspring of affection for the American people. American culture similarly draws enthusiastic approval, particularly among young people. If the new presidency can utilize this good will to position the United States on a moral plane, rather than on an expedient path in its foreign policy, it could literally change the entire world.

For example, this type of international plan applied to the ravaged continent of Africa could make a meaningful difference to the lives of millions, and provide them with the possibility of a better life and future. And lest these conclusions be deemed naïve, given the dangers the world is facing today—such as terrorism, dictatorship, revolutions, civil wars, economic melt-down and so on—is it not also true that America has always shown its best when facing very serious challenges and threats? The fact that the whole world became fascinated and enthralled by the 2008 American election shows how interested people around the world are in this amazing political phenomenon called the United States of America. While American foreign policy has many external detractors, the American people collectively command huge affection. Their decision to select a president who was lauded globally before he had been elected nationally testifies to the world's continuing absorption in all things American. The prevalence of American culture, and its icons across the planet demonstrate that there is a role for this country not as oppressor, but as friendly neighbor and benevolent helper. With American initiative in a multi-lateral plan of the type sketched out, the world might some day collectively prosper, instead of fragmenting and fracturing along political and economic fault lines. There are huge advantages for America in changing its entire approach to the foreign world. It could prove that there is a clear and direct linkage between the United States and the best values of democratic traditions; that America exists not to economically exploit poor countries for their resources, but to help them to achieve a higher standard of living; that America devotes itself initially to fulfilling human rights at home, and then to working toward such achievement overseas. If America commits itself in such a manner, threats to the United States, such as terrorism, could just possibly diminish. No one suggests that any of this will happen overnight or very quickly. However, the forces that have positioned themselves to destroy the United States—namely the fundamentalists and terrorists—gain popular support because American governments act in a manner that is either callous about the rest of the world, or indifferent to external imperatives. When America is perceived globally as a friend within the community of nations, not an international military power bent on its own agendas, inevitably the popular support that is vital for the sustenance of terrorism will diminish. This type of proposal, however idealistic it may sound, is actually in America's self-interest. We have witnessed the utter failure of

twentieth century style foreign policy. This new millennium has to come up with approaches that are not merely reflections of thinking outside the box, but which toss the box out in favor of innovative methods to approach the world.

And while naysayers might suggest that this is dreaming beyond the reach of humanity, looking over human history, all that is best in the world started as a dream, from where it progressed to an ideal, flowered into an idea, and after much human thought, ultimately became reality. There are many manifestations of evil prevalent in the world today. Exploitative child labor is just one such criminal practice. However, though this research has shown a bleak picture of suffering, it has also demonstrated universal concern and compassion hard at work, attempting to eradicate this evil.

Child labor, like slavery, is one more manifestation of what humanity can sink to when greed and avarice dominate. The eradication of child labor will prove once and for all that humanity has the will to achieve positive change, and that it has the grasp to reach for it. Given the risks that threaten not just the nations of the South, but those of the North, can we really afford not to rid our world of these evil practices?